

Scottish Government Review of Permitted Development Rights

Phase 2 Consultation

**Analysis of responses to the consultation
exercise**

Analysis report

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February 2023



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Executive Summary

Introduction

The Scottish Government is carrying out a review of Permitted Development Rights (PDR) as part of a wider programme of planning reform. PDR refer to forms of development that are granted planning permission through national legislation, meaning they can be carried out without an application for planning permission having to be submitted to, and approved by, the relevant planning authority.

This report presents analysis of responses to a public consultation on proposals relating to:

- Electric vehicle (EV) charging infrastructure
- Changes of use in centres and other locations
- Port development

The consultation opened on 11 May 2022 and closed on 3 August 2022. The [consultation documents](#) are available on the Scottish Government's consultation website.

In total 95 responses were received, of which 72 were from groups or organisations and 23 from individual members of the public.

Electric Vehicle Charging Infrastructure

Proposed Changes to Class 9E: Wall-Mounted EV Chargers (Off-street Parking Areas)

A majority of respondents – 65% of those answering the question – agreed with the removal of restrictions on Class 9E PDR, for wall-mounted EV charging outlets, in the specified areas currently listed in Class 9E(3).

Some of those commenting agreed that greater flexibility in planning regulations around development of EV charging infrastructure will make an important contribution to meeting Scottish Government climate targets, noting the potential for a simplified planning process to encouraging more EV adoption. Respondents referred to the relatively small scale of EV charging infrastructure and suggested that it is unlikely to have a significant amenity impact.

Other respondents raised concerns about the potential for the removal of restrictions to have a detrimental impact on protected areas. There were particular concerns about smaller scale areas of historic or cultural importance such as conservation areas, World Heritage Sites and sites of archaeological interest.

A number of respondents who felt that the proposed expansion of PDR goes too far suggested locations or circumstances where PDR should be restricted. Reference was made to retaining restrictions for conservation areas, World Heritage Sites, historic sites, sites of archaeological interest, and designed landscapes.

A majority of respondents – 61% of those answering the question – did not think the conditions regarding nameplates should be withdrawn from Class 9E on wall-mounted EV charging outlets.

A number of those raising concerns around removal of conditions wished to see current restrictions on the size, siting and illumination of nameplates retained.

Proposed Changes to Class 9F: EV Charging Upstands (Off-street Parking Areas)

A small majority of respondents – 55% of those answering the question – agreed with the removal of current restrictions on Class 9F PDR for EV charging upstands in the specified areas currently listed in Class 9F(3).

Some of those expressing support for the removal of restrictions on Class 9F referred to the role of EV in delivering against climate targets, and the projected increase in need for charging infrastructure referenced in the consultation paper. Those raising concerns most commonly linked this to the potential for EV upstands to have a detrimental impact on particularly sensitive areas.

A majority of respondents – 63% of those answering the question – did not agree that the conditions regarding nameplates should be withdrawn from Class 9F on EV charging upstands.

Concerns were most commonly linked to the potential visual impact of nameplates, including the potential for larger and/or illuminated nameplates.

A majority of respondents – 65% of those answering the question – agreed with the proposed increase in height allowable for EV charging upstands under Class 9F PDR.

Reasons given for supporting the proposed increase in height allowance included the importance of faster roll-out of charging points to support climate targets and the need to facilitate the development of higher powered chargers (HPCs).

Concerns about an increased height allowance for charging upstands included that such a change would potentially add to the impact on particularly sensitive locations, such as conservation areas.

Solar canopies and battery storage

A majority of respondents – 69% of those answering the question – agreed with the proposal to introduce PDR for solar canopies and related battery storage and equipment housing for EV charging upstands in off-street parking areas.

Some of those supporting the proposed PDR commented on the value of enabling greater use of renewable energy for EV charging. Reference was also made to the potential for solar canopies to offer opportunities for additional benefits.

Some respondents, including a number of ‘planning authority’ respondents, raised concerns about the potential visual impact of new PDR for solar panels and

associated equipment. The most frequently-raised concern related to the visual impact of the proposed 4 metre height allowance for solar canopies. Respondents – including some otherwise in favour of the proposals – referred to the impact of canopies with a large surface area and the potential cumulative visual impact of multiple solar canopies in close proximity.

A majority of respondents – 72% of those answering the question – agreed with the proposal to introduce PDR for equipment housing for EV charging upstands in off-street areas where solar canopies are not provided.

Reasons given for supporting a new PDR included that the proposed restrictions on the size and location of EV upstands, and especially the proposed list of designated areas where PDR would not apply, would mitigate the potential impact of PDR for equipment housing.

Consistent with views on PDR for equipment associated with solar canopies, concerns raised around the proposed new PDR for equipment housing were focused on the impacts, and particularly on the potential visual impacts, of such development.

A majority of respondents – 78% of those answering the question – agreed with the list of areas within which new PDR for such solar canopies and related battery storage and equipment housing should not apply.

Many of those commenting noted their agreement that the proposed PDR could have a negative impact on the listed areas. This included a view that development allowed under the new PDR could be relatively large and visually imposing. There was a view that the development of EV charging infrastructure should be supported but that there should be a more detailed planning authority assessment to mitigate negative impacts on sensitive environments.

Some of those raising concerns around the potential impact of development under the new PDR identified other locations which were considered inappropriate for PDR. These included in the setting of listed buildings and their curtilage or, specifically, category A listed buildings.

A majority of respondents – 70% of those answering the question – agreed with the suggested height limit of 4 metres on PDR for solar canopies for EV charging upstands in off-street parking areas.

Reasons given for supporting the proposed 4 metre height limit on solar canopies included that it strikes the right balance between supporting use of renewable energy in the rollout of EV charging infrastructure and mitigating any amenity impacts. However, a number of respondents, including some ‘planning authority’ respondents, suggested that the proposed height restriction is too high and would still allow development of substantial structures with the potential for significant visual impact. In contrast, a small number of ‘private sector - energy and transport’ respondents suggested that a height limit of 4 metres may not be sufficient to accommodate taller EVs. They proposed height limits of 5-6 metres to ensure that all vehicles can access charging upstands.

A substantial majority of respondents – 82% of those answering the question – agreed that any new PDR for solar canopies, battery storage and equipment housing for EV charging upstands in off-street parking areas should not apply within 5 metres of a road and 10 metres of the curtilage of a dwelling.

Comments in support of the proposed restrictions included that they will be necessary for mitigating the impact of solar canopies, battery storage and equipment housing while also enabling the appropriate rollout of EV charging infrastructure.

In relation to limiting the PDR within 10 metres of the curtilage of a dwelling, it was suggested that this kind of development in close proximity to residential dwellings could have a significant adverse impact in terms of overshadowing and loss of amenity; there was a view that a 10 metre distance from the curtilage of a dwelling may not be sufficient in all circumstances. There were concerns raised about proximity to other buildings, such as hospitals.

However, some ‘private sector – energy and transport’ respondents described the proposed limits on PDR as overly restrictive and expressed concerns that they could constrain development of EV charging infrastructure unnecessarily.

On-street/Kerbside Charging

A majority of respondents – 68% of those answering the question – thought it would be helpful to amend Class 30 PDR for local authorities to make clear they apply to EV charging points and any associated infrastructure.

Issues raised by those supporting the amendment of the Class 30 PDR included that a clarification would be welcome and should help to minimise the potential for confusion, including because Class 30 does not currently include any explicit reference to EV charging.

Other respondents did not see any need for clarification of Class 30 PDR, with further comments including that the current Class 30 is clear in providing planning authorities with broad powers.

A majority of respondents – 74% of those answering the question – thought that local authority PDR do need to be amended to take account of emerging models for financing, delivering and operating EV charging infrastructure, and the changing nature of private sector involvement.

A frequently-made point was that amendments could enable planning authorities to work in partnership with third parties, including private providers. Those in favour of amending PDR highlighted potential benefits of allowing new forms of private sector involvement. These were primarily focused on the need for greater flexibility and agility in the rollout of charging infrastructure to encourage private investment and support more universal access, with particular reference to the anticipated future scale of need for EV charging.

Some respondents, among them some 'planning authority' respondents, did not think that amendments are required. Comments included that the existing PDR allows for works to be carried out by private developers on behalf of the local authority, and that joint arrangements between local authorities and partner bodies are commonly used across other forms of development.

A small majority of respondents – 53% of those answering the question – did not think PDR for EV charging infrastructure in roads should apply to parties other than local authorities.

A number of respondents gave reasons for why they did not think a PDR should apply to other parties. These included the risk of 'clutter' on roads and other public spaces. It was suggested that other PDR for in-road development have already caused issues in some locations, and there was reference to ongoing efforts by local authorities to improve the design, appearance and usability of town and city centres.

A substantial majority of respondents – 89% of those answering the question – thought that if PDR were to be introduced, it would need to be linked to some arrangement with local authorities or other form of authorisation.

Issues raised by those who agreed sometimes reflected concerns raised at the previous question in relation to 'clutter' and adverse impacts on the amenity, accessibility and safety of public streets. Reference was also made to a need for consistency in standards of in-road development.

Several suggestions were made for potential mechanisms to ensure appropriate authorisation or control of EV charging infrastructure development by third parties. These included authorisation or control managed through partnership or contractual agreements with third parties, or prior notification/prior approval, for example to address matters of visual amenity. The approach to telecommunications development was referenced as a potential model. Concerns about such approaches were also raised.

In terms of what conditions and limitations would need to be placed on any additional PDR for EV charging infrastructure in roads, restrictions on location were most commonly raised in relation to sensitive areas. Specific suggestions included the designated areas set out at Classes 9E and 9F, listed buildings and their curtilage, and the setting of these and of scheduled monuments.

A range of respondents called for restrictions to ensure that development does not hinder active travel by obstructing either footways or cycleways, with specific concerns raised with respect to maintaining safe access for older people, people with disabilities and people using buggies.

Respondents also suggested restrictions to limit the visual impact of EV charging infrastructure, including the dimensions or colour of charging equipment. Again, restrictions set out at Classes 9E and 9F were suggested as a model for restrictions on additional PDR.

In relation to issues to be considered if extending PDR for EV charging infrastructure in roads, a range of respondents highlighted the importance of the relationship between development of EV charging infrastructure and other infrastructure. Most comments referenced essential utilities such as electricity, water, gas and telecommunications, although links with other travel infrastructure such as cycle ways were also noted.

Respondents noted the potential for conflict between development of EV charging infrastructure and other utilities and infrastructure, including competing interests for available road space, both above and below ground. Some respondents highlighted the extensive PDR already in place for statutory undertakers.

Some respondents saw a need for a co-ordinating role, both to ensure that EV charging development under any additional PDR will not affect other infrastructure, and to minimise impacts and costs. There were concerns that requiring planning authorities to co-ordinate in-road development rights would add significant burden to the planning system and it was suggested that Roads Authorities would be suitable for this co-ordinating role.

Changes to Existing Petrol Stations

A substantial majority – 83% of those who answered the question agreed in principle with having PDR for changing existing petrol/diesel stations to EV charging only.

A range of respondents referred to specific benefits associated with delivering EV infrastructure through conversion of existing infrastructure, rather than ‘new’ development. This included suggestions that conversion to EV charging is likely to have little additional visual impact relative to existing petrol stations, and would represent continuation of an established vehicle refuelling land use on sites that are already in appropriate locations.

A small number of respondents took a view that conversion to EV charging is potentially a substantive change that should require planning permission, or that not all existing locations may be suitable for EV charging infrastructure.

In terms of what further specification of the conditions and limitations would be required, some respondents raised specific concerns regarding the proposed condition that there should be ‘no changes to the access arrangements to the road, unless otherwise agreed with the planning authority’. How this would be controlled in the absence of a formal planning process was queried.

There were also concerns that stations may change only gradually from petrol and diesel to EV charging. This in turn raised issues about how PDR would relate to change to a hybrid station, and management of the implications of such change.

Changes of Use in Centres

Potential changes to the UCO

The Town Centre Review Group suggested that the Scottish Government should consider “the desirability of a revision perhaps to a more general Town Centre Use Class”. However, as noted in the consultation paper, the UCO is not a spatial tool and therefore any changes would therefore apply in all locations, not just in centres.

A majority of respondents – 68% of those answering the question – considered that a merged use class would help to support the regeneration, resilience and recovery of Scotland’s centres.

The most-frequently given reason for supporting the creation of a merged use class related to increasing flexibility and adaptability, including to help building owners manage their properties in a way that keeps them in use. It was suggested that the current UCO system is built on the idea that property uses remain largely static but that, with this no longer being the case, a merged class would allow landlords to respond to the market and adapt properties more swiftly, helping to ensure their continued viability.

Other respondents did not think a merged use class would support regeneration or have an overall and/or positive impact on town centres. It was suggested that obtaining planning permission for appropriate town centre uses such as Classes 1, 2 and 3 is generally fairly straightforward and unlikely to pose a significant obstacle to new occupiers. It was suggested that other issues, such as rent or rates levels, are likely a more significant consideration.

In terms of the key risks associated with a merged use class, the most-frequently identified issue centred on the potential amenity impacts associated with changes from commercial uses (such as retail) to cafes, takeaways or restaurants. A number of respondents noted possible issues that could arise in relation to a change to Class 3 food and drink use – particularly where such a change occurs in proximity to residential property. There were also concerns about the impact, particularly on residents, of planning authorities having less control over issues such as operating hours, noise levels, smell and parking.

A number of respondents identified loss of diversity, and the potential clustering of types of uses, as a potential risk associated with a merged use class. There were particular concerns about the loss of retail provision within certain locations, including to the detriment of residents.

There were also references to possible risks connected to a merged use class applying in all areas and not just in designated town and city centres and to how a merged use class could affect locally-driven, plan-led place-making. There were also concerns about whether non-planning controls are sufficient and/or appropriate to address the possible risks. The focus was often on the role of Environmental Health and the amenity-related risks discussed above, and that Environmental Health powers can only mitigate impacts and cannot address any concerns regarding the location.

Masterplan Consent Areas for centres

A substantial majority of respondents – 82% of those answering the question – agreed that Masterplan Consent Areas (MCAs) could be a useful tool to provide more extensive planning freedoms and flexibilities in Scotland’s centres.

Respondents were most likely to comment that MCAs would bring flexibility, including because the approach could be targeted at areas where it would be effective, with MCAs offering the opportunity for a nuanced, place-specific approach to determining what is appropriate development in an area.

It was also suggested that the MCA would provide an important framework in which changes to UCO would sit and could avoid the blunt effect of implementing change nationally and having unintended consequences on areas where such changes are not required.

Those who did not agree that MCAs could be a useful tool included some who had agreed with the introduction of a merged use class. Their further comments included that the current proposal seems at odds with the intention behind MCAs.

PDR for provision of workspace

A majority of respondents – 79% of those answering the question – thought that a PDR providing for a change of use to Class 4 (business) would help to support the regeneration, resilience and recovery of centres – as well as the establishment of 20-minute neighbourhoods.

Some respondents commented that providing for a change of use to Class 4 would offer flexibility, including to reflect changing work patterns and the greater demand for more flexible office space.

While those supporting a PDR for change of use to Class 4 tended to think that, on balance, it would benefit town centres, others thought it would not. It was noted that the loss of the types of uses that attract visitors to town centres would have a harmful impact on vitality and vibrancy. There were particular concerns about the loss of active shopfronts.

If a PDR of this nature were taken forward, many of those who commented agreed with the consultation paper’s reference to a PDR to change from uses in Class 1, 2 and 3 to a Class 4 use.

A substantial majority of respondents – 81% of those answering the question – thought that a 300 square metres would be an appropriate maximum floorspace limit. Comments included that a limit would prevent larger shops or other facilities being lost and protect dedicated office areas where large floor spaces are provided.

In terms of any additional conditions or limitations should such a PDR be subject to, the most-frequently made point was that consideration should be given to preventing the loss of shop frontages in order to protect the appearance of the street.

PDR for moveable outdoor furniture

A majority – 65% of those who answered the question – agreed with the proposed introduction of a PDR for moveable furniture placed on the road outside of (Class 3) food and drink premises.

Reasons given in favour of a PDR for mobile furniture included that it would increase vibrancy and aid the post-pandemic recovery of businesses in the hospitality sector.

Some respondents agreed in principle with a PDR for moveable furniture but suggested that controls would be required, for example that access and safety for people walking, wheeling and cycling must not be compromised. Other respondents argued that the provision should be extended beyond that being considered at present and should apply to bars and public houses.

Some respondents argued against a PDR for mobile furniture, taking a view that this should remain under planning control. It was argued that mobile furniture permitted by the proposed PDR will cause obstruction and concerns were raised with respect to access for older people, people with impaired mobility or vision, and for pedestrians and wheelers all referenced.

Specific issues were raised in relation to noise, and some respondents argued both that the temporary arrangements put in place during the pandemic should not be made permanent, and that a blanket PDR would be inappropriate for small towns and villages and for conservation areas.

A large majority – 85% of those who answered the question – thought that there should be conditions or limitations on a PDR for moveable furniture.

Respondents emphasised the need to ensure inclusive access is maintained. It was suggested an assessment of pedestrian and traffic safety impacts should be required or that an Equality Impact Assessment should be carried out. Other conditions that respondents thought should be applied to the proposed PDR included around hours of operation and the size and location of seating areas.

A majority of respondents – 67% of those who answered the question – did not think that there are any uses other than (Class 3) food and drink premises that a PDR for moveable furniture should apply to. Of those who did think such a PDR should apply to premises other than class 3, the most frequent suggestion was that it should apply to public houses (sui generis use) or to all licensed premises.

A majority – 77% of those who answered the question – thought that matters such as safety and inclusive access could continue be controlled through other regimes that would continue to apply. Some respondents argued that those matters are likely to be compromised without appropriate planning controls, or that it is not clear how other regimes can control these matters. However, the majority view was that controlling safety and access via other regimes is possible. While a small number of respondents pointed to licensing arrangements and/or Environmental Health

regulation, many more referenced the Roads Authority or the Roads (Scotland) Act 1984 as providing such control.

PDR for provision of residential accommodation

A substantial majority of respondents – 91% of those answering the question – agreed that new residential development in Scotland’s centres should be plan-led rather than consented through new PDR.

A number of those who supported a plan-led approach simply noted that they agreed with the explanation set out in the consultation paper. Further comments included that planning control is essential, with a plan-led approach allowing development to be located in the best areas, supporting the creation of 20-minute neighbourhoods, and allowing potential use conflicts to be addressed at an early stage. Other advantages connected to the plan-led approach included that it allows for the impact on infrastructure and local public services to be taken into account.

A small majority of respondents who answered the question – 53 % – thought there are other PDR changes that could support the regeneration, resilience and recovery of centres. The most frequent suggestion was that consideration should be given to allowing temporary use of buildings, and that this could be for 28 days or for up to 3 months. Respondents suggested that a PDR might apply to buildings and their curtilage, up to a limited floor area. Among potential benefits identified were reducing vacancies, flexibility, promoting entrepreneurship and allowing businesses/owners to test different options before applying for planning permission.

Port Development

PDR for ports

The Scottish Government is considering whether port operators’ PDR are fit for purpose and whether amending them could support the Scottish and UK Governments’ objectives for Green Freeports. The consultation paper explains that, following a UK Government decision to amend the PDR that apply to port operators in England, the Scottish Government is minded to take forward similar measures in Scotland to ensure a level playing field between English and Scottish ports.

A substantial majority of those who answered the question – 91% – agreed that, with respect to PDR, there should be a level playing field between English and Scottish ports. In some cases, respondents added caveats in relation to the detail of any potential changes to PDR. Reasons given in support of a level playing field were most frequently the economic importance of parity between ports in England and Scotland and the risk that Scottish ports could be placed at a competitive disadvantage in the absence of equivalent PDR.

Both respondents who agreed there should be a level playing field and some who did not argued that, rather than necessarily mirroring changes to English planning policy, amendments to PDR in Scotland should be based on an understanding of benefits and impacts in Scotland.

With respect to the amendments in England, and the practical effect of making an equivalent change to Class 35 PDR, comments included that the changes made in England are vague or that it is not clear what the practical effects of an equivalent change to Class 35 PDR would be. However, there was also a view that the effects would be to ensure a level playing field between English and Scottish ports.

In relation to the addition of ‘...in connection with the provision of services and facilities’, some respondents welcomed the revised drafting with comments around amended wording. However, it was noted that no definition of ‘services and facilities’ is provided.

Some respondents referenced the requirement for consultation with planning authorities, introduced as part of recent PDR changes in England, arguing that this should not be replicated in Scotland, or that any consultation must be proportionate. The range of other consenting processes to which port development and operations are already subject were noted.

The majority of those who answered the question – 60% – thought that there is potential to widen the scope of Class 35 PDR further. However, further comments suggested that some respondents may have been referring to an extension of the *existing* Class 35 PDR to give parity with English ports and others to an extension of Class 35 *beyond* that required to give parity with PDR for English ports.

Some respondents considered that the scope of Class 35 PDR is already wide, and potentially too wide, with one suggestion that existing provisions may be used inappropriately. Others felt that providing parity with rights now available in England would be adequate.

In terms of considering higher thresholds, it was suggested that leaving the EU creates an opportunity to reconsider the thresholds for Environmental Impact Assessment (EIA) Screening, including the area of the works of harbour projects.

MCAs for ports

A substantial majority – 89% of those who answered the question – thought that MCAs could be a useful tool to provide more extensive planning freedoms and flexibilities in Scotland’s ports.

Some respondents agreed MCAs could provide greater flexibility and an opportunity for a place-specific approach, targeting development opportunities in specific areas while also setting limitations and ensuring the right development happens in the right place.

While there was broad support for use of MCAs, several caveats were added including that subordinate legislation introducing MCAs has yet to be put in place and they are not yet proven in practice. Both the extensive work needed to establish an MCA and the significant resource allocation this will require on the part of local authorities were highlighted, with a view that this may not be feasible given current pressures.

A small number of respondents did not think MCAs will provide a useful tool, with a view expressed that the proposed use misunderstands the intention for which MCAs were designed.

1. Introduction

Background

The Scottish Government is carrying out a review of Permitted Development Rights (PDR) as part of a wider programme of planning reform. PDR refer to forms of development that are granted planning permission through national legislation, meaning they can be carried out without an application for planning permission having to be submitted to, and approved by, the relevant planning authority.

PDR are contained within the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (the GPDO) and are subject to conditions and limitations that are specified in the GPDO.

The Scottish Government's review of PDR is being taken forward in phases, with each phase looking at the potential for new and extended PDR for specific development types. This report presents analysis of responses to a public consultation on Phase 2 proposals relating to:

- EV charging infrastructure.
- Changes of use in centres and other locations.
- Port development.

The consultation opened on 11 May 2022 and closed on 3 August. The [consultation documents](#) are available on the Scottish Government's consultation website.

Profile of responses

In total 95 responses were received, of which 72 were from groups or organisations and 23 from individual members of the public. Where consent has been given to publish the response, it may be found on the Scottish Government's consultation website at: <https://consult.gov.scot/planning-architecture/permitted-development-rights-review>.

Respondents were asked to indicate whether they were responding as an individual or on behalf of a group or organisation. Group respondents were then allocated to one of nine categories by the analysis team. A breakdown of the number of responses received by respondent type is set out in Table 1 below, and a full list of group respondents is appended to this report as Annex 1.

Table 1: Respondents by type

Respondent type	Number
Organisations	72
Planning authority	19
Professional or representative body	7
Public body or corporation	6
Private sector	23
<i>Energy and transport</i>	10
<i>Hospitality</i>	4
<i>Other</i>	9
Third sector	17
<i>Active travel</i>	8
<i>Community Council</i>	2
<i>Other</i>	7
Individuals	23
All respondents	95

Analysis and reporting

The consultation paper asked 39 questions, some of which had both closed and open elements, and some were entirely open. The report presents a question-by-question analysis of answers, with responses to the closed questions presented in tabular form, and with the number commenting at open questions also noted in each case.

Both the proportion of respondents answering closed questions and the number commenting at open questions varied considerably from question to question. To reflect this differing level of response, tables are presented with different baselines, so the total shown in each case is the total number who answered that question.

Finally, and as with any public consultation exercise, it should be noted that those responding generally have a particular interest in the subject area. Therefore, the views they express cannot necessarily be seen as representative of wider public opinion.

2. Electric Vehicle Charging Infrastructure

Given the expected scale of future demand for EVs and associated demand for charging points, the Scottish Government:

- Proposes changes to existing PDR for EV charging in off-street parking areas (Classes 9E and 9F).
- Considers changes to existing PDR and new PDR for charging infrastructure in other areas, including PDR for EV charging on or adjacent to pavements, and conversion of petrol stations to charging forecourts.

Proposed Changes to Class 9E: Wall-Mounted EV Chargers (Off-street Parking Areas)

Current Class 9E grants permission for wall-mounted EV charging points in certain off-street parking areas, sets out specifications for the size and location of charging points, and specifies conditions on nameplates and removal of redundant equipment. The consultation paper notes that PDR are largely restricted to relatively small development on existing walls in existing off-street parking areas, but do not apply in a range of areas specified in Class 9E(3), potentially limiting the effectiveness of PDR in encouraging people to switch to EV. It also asks about changes to the conditions on nameplates.

The proposal is that current restrictions on PDR in specified areas under Class 9E(3) are removed, with the option of an 'Article 4 direction'¹ retained for locations which raise concerns requiring a planning application.

Question 1 – Do you agree with the removal of restrictions on Class 9E PDR, for wall-mounted EV charging outlets, in the specified areas currently listed in Class 9E(3)?

Responses to Question 1 by respondent type are set out in Table 2 below.

¹ Article 4 of the GPDO contains provisions which allow planning authorities or Scottish Ministers to make directions (commonly known as Article 4 directions) removing PDR for particular types of development or classes of development in an area identified by the direction. This triggers the need for an application for planning permission for what would otherwise be permitted development.

Table 2

Respondent type	Yes	No	Total
Organisations	24	12	36
% of organisations	67%	33%	100%
Planning authority	7	9	16
Professional or representative body	2	1	3
Public body or corporation	1	0	1
Private sector	8	0	8
<i>Energy and transport</i>	4	0	4
<i>Hospitality</i>	0	0	0
<i>Other</i>	4	0	4
Third sector	6	2	8
<i>Active travel</i>	3	0	3
<i>Community Council</i>	1	0	1
<i>Other</i>	2	2	4
Individuals	9	6	15
% of individuals	60%	40%	100%
All respondents	33	18	51
% of all respondents	65%	35%	100%

A majority of respondents – 65% of those answering the question – agreed with the removal of restrictions on Class 9E PDR, for wall-mounted EV charging outlets, in the specified areas currently listed in Class 9E(3). While the majority of other groups agreed, a small majority of ‘planning authority’ respondents disagreed.

Around 55 respondents made a comment at Question 1.

Support for the removal of restrictions

Some of those commenting agreed that greater flexibility in planning regulations around development of EV charging infrastructure will make an important contribution to meeting Scottish Government climate targets, noting the potential for a simplified planning process to encouraging more EV adoption. This included comments from ‘planning authority’ and ‘private sector - energy and transport’ respondents and was linked to a view that the removal of restrictions is likely to result in relatively minor changes within currently restricted areas.

Respondents referred to the relatively small scale of EV charging infrastructure and suggested that it is unlikely to have a significant amenity impact. There was also agreement that planning conditions, or Article 4 directions where appropriate, will be sufficient to limit the visual impact of EV chargers, for example in terms of size requirements and limits on chargers facing on to a road.

Concerns were also raised that current restrictions disadvantage households in protected areas, potentially having an impact on the desirability of these areas. A specific suggestion was that, given the reliance on single person car travel, rural protected areas should be a priority for rollout of EV charging infrastructure.

Concerns raised around removal of restrictions

Other respondents raised concerns about the potential for the removal of restrictions to have a significant detrimental impact on protected areas. There were particular concerns about smaller scale areas of historic or cultural importance such as conservation areas, World Heritage Sites and sites of archaeological interest. Some respondents suggested that Class 9E should distinguish between these areas and larger landscape areas, with the latter seen as less sensitive to further development of already developed sites.

There was a view that the argument for removal of restrictions set out in the consultation paper (that PDR would only apply to existing off-street parking areas that are already subject to development) is more relevant to larger, undeveloped areas such as National Parks and National Scenic Areas. It was suggested that this argument should not apply to conservation areas which are already developed and where the character and appearance of this development is the focus of the protected status. There was concern that even small-scale EV charging infrastructure could have a disproportionate detrimental impact on the character of conservation areas, and it was noted that off-street parking areas can form an important part of the visual realm for some conservation areas. It was suggested that planning authorities should retain the power to undertake a detailed assessment of proposed EV infrastructure in these protected areas to identify potential negative impacts and specify appropriate mitigation.

While most of those raising concerns around impacts on protected areas discussed the principle of removing all restrictions on PDR, some referenced the potential impact of changes to specific aspects of the current Class 9E. These included potential visual impacts associated with removal of restrictions on illumination of nameplates, and potential noise impacts from larger charging points. It was also noted that faster charging units could lead to higher throughput of vehicles, with associated noise disturbance. These issues were again highlighted as particular concerns for conservation areas and World Heritage Sites.

There was also some concern that individual planning authorities pursuing Article 4 directions would not ensure a consistent approach across local authority areas. Further comments included that current restrictions on PDR in protected areas have significantly reduced the need for Article 4 directions. There was concern that planning authorities do not have the resources to effectively monitor and enforce Article 4 directions.

It was also suggested that limits on PDR for EV charging should be retained to ensure that charging points are accessible to disabled motorists. This included calls for their needs to be part of a planning authority assessment of proposed EV charging infrastructure. The issue of such infrastructure blocking access, even in off-street parking areas, was also raised.

Several respondents referred here and at other questions to a need to discourage private car use, and encourage public transport, walking, wheeling and cycling. These respondents were concerned that changes to PDR for EV charging infrastructure do not support this aim, and may work against it. For example, an

'Individual' respondent suggested that proposed changes could build in reliance on car infrastructure, and hence inhibit the future transition to other modes of travel.

Suggested restrictions or exceptions

A number of respondents who felt that the proposed expansion of PDR goes too far suggested locations or circumstances where PDR should be restricted.

In terms of protected areas, there was a particular focus on areas of environmental or cultural importance. Reference was made to retaining restrictions for conservation areas, World Heritage Sites, historic sites, sites of archaeological interest, and designed landscapes. Some also suggested additional restrictions to current Class 9E PDR. This included reference to the GPDO in England² as a potential model for restrictions on the location of charging points, for example restricting PDR for the settings of scheduled monuments, and within the curtilage of listed buildings.³

Changes were also suggested to Class 9E(2) in relation to the size and location of EV charging infrastructure. The use of planning guidance and/or prior notification/prior approval to mitigate the impact of infrastructure, was one suggestion. There were also specific suggestions for revision to existing PDR requirements, including:

- Amending Class 9E(2)(a) to refer to maximum dimensions rather than volume.
- Strengthening Class 9E(2)(b) to require that new installations are only located on the side or to the rear of buildings, and to ensure charging points and associated cabling do not impinge on footways and pavements.
- Amending Class 9E to encourage charger casings to be black or colour-matched to buildings.

A different perspective was that the removal of restrictions should go further, for example with the removal of current 9E(2)(b) limits on the location of chargers. The value of the 2 metre specification was questioned if chargers are to be allowed within the highway curtilage.

Question 2 – Should the conditions regarding nameplates be withdrawn from Class 9E on wall-mounted EV charging outlets?

Responses to Question 2 by respondent type are set out in Table 3 below.

² The Town and Country Planning (General Permitted Development) (England) Order 2015

³ The limitations set out by the respondent no longer reflect the content of the relevant Class of this 2015 Order – which was amended by The Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations 2019 (S.I. 2019/907).

Table 3

Respondent type	Yes	No	Total
Organisations	11	19	30
% of organisations	37%	63%	100%
Planning authority	5	11	16
Professional or representative body	2	1	3
Public body or corporation	0	0	0
Private sector	3	2	5
<i>Energy and transport</i>	2	1	3
<i>Hospitality</i>	0	0	0
<i>Other</i>	1	1	2
Third sector	1	5	6
<i>Active travel</i>	0	3	3
<i>Community Council</i>	0	0	0
<i>Other</i>	1	2	3
Individuals	6	8	14
% of individuals	43%	57%	100%
All respondents	17	27	44
% of all respondents	39%	61%	100%

A majority of respondents – 61% of those answering the question – did not think the conditions regarding nameplates should be withdrawn from Class 9E on wall-mounted EV charging outlets. Most ‘planning authority’ and ‘third sector’ respondents did not think so, with ‘professional or representative body’ and ‘private sector’ respondents more evenly divided on this issue.

Around 45 respondents made a comment at Question 2.

Concerns raised around withdrawal of conditions

A number of ‘planning authority’ respondents were among those raising concerns that the withdrawal of conditions could result in larger and more intrusive nameplates, including through greater use of illumination. Respondents suggested that, from an advertising perspective, it could be in the interest of charging point manufacturers to increase the prominence of nameplates. This was seen as having potential to negatively impact the character and visual amenity of the surrounding area. There were specific concerns regarding the potential impact on more sensitive sites such as conservation areas, especially if restrictions on PDR in these areas are removed.

Respondents also questioned the need for removal of restrictions regarding nameplates. It was suggested that current restrictions – for example allowing up to two nameplates each on opposite sides of the casing – should provide sufficient branding for manufacturers. This included comparison with conditions placed on other street furniture.

A number of those raising concerns around removal of conditions wished to see current restrictions on the size, siting and illumination of nameplates retained. However, some suggestions for amendment to current conditions were made, including:

- Planning guidance could be used to ensure nameplates are in accordance with local and national planning guidance, while allowing relaxation of current conditions.
- Current restrictions should be replaced with a requirement that charging points do not include any moving or scrolling images.
- Condition (d) should be removed to allow sufficient illumination for charging points to be accessible at night and in low light.

It was also noted that metres and millimetres are the standard international measurement units, and it was suggested that the wording of Class 9E is updated accordingly.

Support for withdrawal of conditions

Comments in favour of the withdrawal of conditions around nameplates included support for the simplification of current legislation and a view that the inclusion of a nameplate is unlikely to significantly change the overall visual impact of a charging point. However, concerns were raised that illumination could have a more significant impact and some respondents wished to see the restriction on illumination retained.

It was also noted that charging points may reduce in size as technology advances, further limiting the potential visual impact of nameplates. A 'private sector - energy and transport' respondent suggested that removal of restrictions could help to encourage further commercial investment in EV charging infrastructure. The issue of signage for instructions to users was also mentioned.

Proposed Changes to Class 9F: EV Charging Upstands (Off-street Parking Areas)

Class 9F grants permission for EV charging point upstands in certain off-street parking areas, sets out specifications for the size and location of upstands, and specifies conditions on nameplates and removal of redundant equipment. The consultation paper notes that PDR for upstands are largely restricted to development on existing off-street parking areas outwith a range of protected areas and, as such, may not be consistent with the projected increase in need for charging infrastructure.

The consultation paper proposes that, consistent with proposals for Class 9E, current restrictions on PDR in areas specified under Class 9F are removed, with the option of an Article 4 direction retained for particularly sensitive locations. It again asks about the issue of conditions on nameplates on such equipment. Views were also sought on a number of proposed changes to Class 9F.

Question 3 – Do you agree with the removal of current restrictions on Class 9F PDR for EV charging upstands in the specified areas currently listed in Class 9F(3)?

Responses to Question 3 by respondent type are set out in Table 4 below.

Table 4

Respondent type	Yes	No	Total
Organisations	19	17	36
% of organisations	53%	47%	100%
Planning authority	5	11	16
Professional or representative body	1	1	2
Public body or corporation	1	0	1
Private sector	9	0	9
<i>Energy and transport</i>	5	0	5
<i>Hospitality</i>	0	0	0
<i>Other</i>	4	0	4
Third sector	3	5	8
<i>Active travel</i>	1	3	4
<i>Community Council</i>	0	0	0
<i>Other</i>	2	2	4
Individuals	9	6	15
% of individuals	60%	40%	100%
All respondents	28	23	51
% of all respondents	55%	45%	100%

A small majority of respondents – 55% of those answering the question – agreed with the removal of current restrictions on Class 9F PDR for EV charging upstands in the specified areas currently listed in Class 9F(3). While all ‘private sector’ respondents and a majority of ‘individual’ respondents agreed, a majority of ‘planning authority’ and ‘third sector – active travel’ respondents disagreed.

Around 50 respondents made a comment at Question 3.

Support for the removal of restrictions

Some of those expressing support for the removal of restrictions on Class 9F referred to the role of EV in delivering against climate targets, and the projected increase in need for charging infrastructure referenced in the consultation paper. It was also noted that PDR would be limited to off-street parking areas that are already subject to development, potentially including other infrastructure and street furniture, such that EV charging upstands are unlikely to have a significant additional visual impact.

There was a view that the current restrictions on the size and siting of EV upstands, and the option of Article 4 directions, are adequate safeguards to limit impacts in more sensitive locations.

Concerns raised around removal of restrictions

Those raising concerns around the removal of restrictions on Class 9F most commonly linked this to the potential for EV upstands to have a detrimental impact on particularly sensitive areas. Consistent with responses in relation to Class 9E, smaller scale areas of historic or cultural importance were identified as particularly sensitive to negative impacts. This included specific reference to conservation

areas, World Heritage Sites and sites of archaeological interest where the built environment was seen as essential to the character of the area.

Some of those raising concerns noted that EV upstands can be relatively large and visually imposing, and it was suggested that the diversity of upstand design allows for options with greater visual impact; it was thought that the proposed changes to Class 9F could have greater impact than those for wall-mounted chargers at Class 9E. It was also suggested that, even with limits on size and distance from the road, the development of multiple upstands could have a significant detrimental impact on particularly sensitive sites such as conservation areas and World Heritage Sites. Concerns were also raised about the potential for unrestricted development to affect the accessibility of some pavements.

The above concerns were compounded by a view that Article 4 legislation may not be an adequate replacement for current restrictions on PDR. For example, it was suggested that Article 4 directions are less clear for users than PDR and may not ensure a consistent approach across planning authority areas.

Some of those raising concerns about the removal of restrictions suggested alternative approaches. These included that restrictions should be lifted only for some protected areas. Some respondents wished to see Class 9F take account of the specific character of different categories of protected area, including the reasons for their protection. Protected areas most commonly identified as unsuitable for PDR were conservation areas, World Heritage Sites, and sites of archaeological interest. Reference was also made to limiting PDR for historic gardens or designed landscapes, National Scenic Areas and historic battlefields.

Other suggestions included that:

- Alongside removal of restrictions on PDR, planning guidance should be introduced to ensure the size and location of upstands are consistent with local and national planning policy. This included calls for specifications for the visual appearance of upstands, for example limiting use of bright colours.
- The current geographic restrictions on PDR should be extended to limit PDR for listed buildings and their curtilage.

Question 4 – Should the conditions regarding nameplates be withdrawn from Class 9F on EV charging upstands?

Responses to Question 4 by respondent type are set out in Table 5 below.

Table 5

Respondent type	Yes	No	Total
Organisations	11	19	30
% of organisations	37%	63%	100%
Planning authority	4	11	15
Professional or representative body	2	1	3
Public body or corporation	0	0	0
Private sector	4	2	6
<i>Energy and transport</i>	3	1	4
<i>Hospitality</i>	0	0	0
<i>Other</i>	1	1	2
Third sector	1	5	6
<i>Active travel</i>	0	3	3
<i>Community Council</i>	0	0	0
<i>Other</i>	1	2	3
Individuals	2	3	5
% of individuals	40%	60%	100%
All respondents	13	22	35
% of all respondents	37%	63%	100%

A majority of respondents – 63% of those answering the question – did not agree that the conditions regarding nameplates be withdrawn from Class 9F on EV charging upstands. ‘Private sector – energy and transport’ and ‘professional or representative body’ respondents were the only groups in which the majority agreed with their withdrawal.

Around 40 respondents made a comment at Question 4, although a number of respondents simply referred back to their comments at previous questions.

Concerns raised around withdrawal of conditions

Concerns were most commonly linked to the potential visual impact of nameplates, including the potential for larger and/or illuminated nameplates. This included reference to concerns highlighted in relation to Class 9E, that removal of conditions could incentivise manufacturers to increase the prominence of nameplates as a form of advertising. It was suggested that this would have a particularly significant adverse impact on the amenity and character of more sensitive areas. This included specific reference to conservation areas and World Heritage Sites, with some respondents calling for retention of conditions on nameplates if restrictions on PDR in these areas are lifted.

Some of those broadly in favour of withdrawing conditions on nameplates raised specific concerns around illumination and wished to see this condition retained. However, others noted the common use of LED lighting on EV upstands, and suggested that care is required to ensure that any restriction of illumination of nameplates does not inadvertently limit other aspects of upstand design.

Respondents also questioned the need for removal of restrictions regarding nameplates on EV upstands, with some suggesting that current restrictions still allow sufficient scope for manufacturer branding. It was suggested that planning

guidance would be sufficient to ensure that nameplates are in accordance with local and national planning guidance.

Support for withdrawal of conditions

Consistent with comments in relation to conditions at Class 9E, some of those who supported withdrawal of conditions suggested that a nameplate is unlikely to significantly change the overall visual impact of a charging upstand. It was also suggested that the visual impact of nameplates is likely to diminish as charging points reduce in size over time due to improved technology.

‘Private sector - energy and transport’ respondents also referred to the potential benefit of suitably angled inbuilt lighting, for example to aid use at night, and wished to see the restriction on lighting of nameplates removed to allow for this.

Question 5 – Do you agree with the proposed increase in height allowable for EV charging upstands under Class 9F PDR from 1.6 metres to 2.5 metres in all off-street parking locations, except within the curtilage of a dwelling?

Responses to Question 5 by respondent type are set out in Table 6 below.

Table 6

Respondent type	Yes	No	Total
Organisations	20	12	32
% of organisations	62%	38%	100%
Planning authority	9	5	14
Professional or representative body	2	1	3
Public body or corporation	0	0	0
Private sector	7	1	8
<i>Energy and transport</i>	4	1	5
<i>Hospitality</i>	0	0	0
<i>Other</i>	3	0	3
Third sector	2	5	7
<i>Active travel</i>	0	3	3
<i>Community Council</i>	0	0	0
<i>Other</i>	2	2	4
Individuals	10	4	14
% of individuals	71%	29%	100%
All respondents	30	16	46
% of all respondents	65%	35%	100%

A majority of respondents – 65% of those answering the question – agreed with the proposed increase in height allowable for EV charging upstands under Class 9F PDR. ‘Third sector - active travel’ respondents were the only group in which the majority did not agree.

Around 45 respondents made a comment at Question 5.

Support for an increased height allowance

Reasons given for supporting the proposed increase in height allowance included the importance of faster roll-out of charging points to support climate targets. The need to facilitate the development of higher powered chargers (HPCs) was highlighted, with two 'private sector - energy and transport' respondents providing evidence on the typical dimensions of HPCs.

It was also argued that an increased height allowance is unlikely to result in significant additional visual impacts in off-street parking areas, although it was noted that larger upstands may have a more significant visual impact in off-street parking within residential developments where these are close to residential properties. In this context, there was support for the exception for charging upstands within the curtilage of dwellings. This reflected concerns that larger upstands may have a more significant visual impact in domestic settings.

Concerns raised about an increased height allowance

Concerns about an increased height allowance for charging upstands included that such a change would potentially add to the impact on particularly sensitive locations, such as conservation areas. While there was a view that a height of 2.5 metres would be in keeping with traditional developed areas, it was also suggested that this is higher than most cars and vans and that such upstands could have a significant visual impact in more sensitive urban and rural environments. This was seen as a particular issue if the restrictions on PDR in designated areas are removed, and there was a view that the increase in height allowance should not be introduced if other restrictions are removed. A connected point was that the requirement for case-by-case assessment of proposals at this scale should be retained.

It was also suggested that larger HPCs may increase noise impacts, and could result in higher throughput of vehicles. Again, these impacts were seen as particularly significant in conservation areas and other sensitive locations.

Reflecting these concerns, respondents suggested the following amendments to proposals:

- The height increase should not apply within conservation areas, World Heritage Sites or historic gardens and designed landscapes.
- The height increase should not apply within 2 metres of the curtilage of a dwelling.
- A maximum volume should also be introduced alongside the height allowance.

A different perspective was that the height allowance should be increased further to 2.7 metres. It was suggested that this would allow for installations on existing raised pavement areas, and for further development in design of upstands. However, concern was also raised about potential for siting of equipment on plinths or raised pavements to limit accessibility for disabled people or those with mobility issues.

Question 6 – Do you agree with the proposal to introduce PDR for solar canopies and related battery storage and equipment housing for EV charging upstands in off-street parking areas?

Responses to Question 6 by respondent type are set out in Table 7 below.

Table 7

Respondent type	Yes	No	Total
Organisations	24	13	37
% of organisations	65%	35%	100%
Planning authority	9	9	18
Professional or representative body	4	1	5
Public body or corporation	1	0	1
Private sector	8	0	8
<i>Energy and transport</i>	5	0	5
<i>Hospitality</i>	0	0	0
<i>Other</i>	3	0	3
Third sector	2	3	5
<i>Active travel</i>	0	2	2
<i>Community Council</i>	0	0	0
<i>Other</i>	2	1	3
Individuals	11	3	14
% of individuals	79%	21%	100%
All respondents	35	16	51
% of all respondents	69%	31%	100%

A majority of respondents – 69% of those answering the question – agreed with the proposal to introduce PDR for solar canopies and related battery storage and equipment housing for EV charging upstands in off-street parking areas. All ‘private sector’ respondents agreed, as did most ‘professional or representative body’ and ‘individual’ respondents. ‘Planning authority’ respondents were evenly divided, and ‘third sector’ respondents were the only group in which the majority did not agree.

Around 40 respondents made a comment at Question 6, with a number referring back to their comments at earlier questions.

Support for PDR for solar canopies, battery storage and equipment housing

Some of those supporting the proposed PDR commented on the value of enabling greater use of renewable energy for EV charging. This was highlighted in terms of delivering against Scottish Government climate targets, and limiting additional demand on the electricity distribution network.

It was also suggested that the new PDR is unlikely to have a significant visual impact, particularly given proposals to limit the location and size of solar canopies. It was noted that the new PDR would be restricted to off-street parking areas, and would not apply within 10 metres of residential dwellings or in designated areas. It was also suggested that canopy structures by their nature are open, with a

relatively limited visual impact. Views on specific restrictions are considered further at Questions 8 to 10.

Reference was also made to the potential for solar canopies to offer opportunities for additional benefits. For example, it was suggested that creative design could enable solar canopies to be integrated with green infrastructure or incorporate public seating areas. In this context, several respondents questioned the appropriateness of the new PDR limiting the energy produced by solar canopies to EV charging only. While there was support for the proposal, some respondents suggested that this could unnecessarily limit scope for solar canopies to support local green infrastructure, deliver renewable energy to surrounding buildings, and to provide surplus energy to the network. There were also calls for further detail on how this condition would be monitored and enforced.

One 'private sector – energy and transport' respondent referred to high powered chargers needing vast areas of solar panels, beyond what these sorts of canopies could provide.

Given the proposed conditions for the size and number of units, the potential visual impact of battery storage and equipment housing was seen as comparable with other infrastructure, such as telecommunications cabinets. It was suggested that this kind of structure would not be out of place in off-street parking areas.

Concerns raised around PDR for solar canopies, battery storage and equipment housing

Some respondents, including a number of 'planning authority' respondents, raised concerns about the potential visual impact of new PDR for solar panels and associated equipment. Respondents suggested that proposed height and size restrictions would still permit substantial development that could have a significant impact on the streetscape or character of an area. This included reference to the potential for development in parking areas forward of the principal elevation of residential buildings. It was suggested that case-by-case assessment should be retained to manage the impact of development of this scale.

The most frequently-raised concern related to the visual impact of the proposed 4 metre height allowance for solar canopies. Respondents – including some otherwise in favour of the proposals – referred to the impact of canopies with a large surface area and the potential cumulative visual impact of multiple solar canopies in close proximity. In this context there was support for the proposal to limit PDR for solar canopies within 10 metres of a dwelling – an issue considered further at Question 10. However, others felt that controls should be strengthened, for example to include restrictions on the surface area of solar canopies, with trolley shelters cited as a potential model. It was also suggested that planning authorities should retain some approval process for larger scale solar canopy development.

Respondents also referred specifically to the potential visual impact of battery storage and equipment housing, noting that this could add considerably to the overall size of EV charging points and their visual impact. The potential for increased noise impacts associated with HPCs and battery storage was also

highlighted. However, some ‘private sector – energy and transport’ respondents suggested that proposed size criteria for battery storage and equipment housing may be overly restrictive and, in particular, that the permitted threshold for equipment housing is unlikely to be sufficient for HPCs. Another such party was concerned about the height limit and vehicle clearances. The latter point was also raised in connection with accessibility of facilities to adapted vehicles for disabled people or people with mobility issues.

Also related to the potential visual impact of a new PDR, there was a specific concern about the potential loss of trees and other landscaping as a result of installation works. There were calls for a requirement that any such loss of landscaping is replaced following completion of works.

Concerns were also raised about potential impacts on supply of parking spaces and issues of accessibility of facilities to different groups, and glint and glare near aerodromes. Potential impacts in sensitive environments not included in the list of designated areas for the new PDR were also highlighted, an issue that is discussed further at Question 8 below.

Question 7 – Do you agree with the proposal to introduce PDR for equipment housing for EV charging upstands in off-street areas where solar canopies are not provided?

Responses to Question 7 by respondent type are set out in Table 8 below.

Table 8

Respondent type	Yes	No	Total
Organisations	23	8	31
% of organisations	74%	26%	100%
Planning authority	11	5	16
Professional or representative body	2	1	3
Public body or corporation	1	0	1
Private sector	7	0	7
<i>Energy and transport</i>	4	0	4
<i>Hospitality</i>	0	0	0
<i>Other</i>	3	0	3
Third sector	2	2	4
<i>Active travel</i>	0	2	2
<i>Community Council</i>	0	0	0
<i>Other</i>	2	0	2
Individuals	8	4	12
% of individuals	67%	33%	100%
All respondents	31	12	43
% of all respondents	72%	28%	100%

A majority of respondents – 72% of those answering the question – agreed with the proposal to introduce PDR for equipment housing for EV charging upstands in off-street areas where solar canopies are not provided. ‘Third sector’ respondents were

evenly divided and were the only group in which a majority did not agree with the proposal.

Around 40 respondents made a comment at Question 7.

Support for PDR for equipment housing where solar canopies are not provided

Reasons given for supporting a new PDR included that the proposed restrictions on the size and location of EV upstands, and especially the proposed list of designated areas where PDR would not apply, would mitigate the potential impact of PDR for equipment housing. Some also compared proposed restrictions on the new PDR with regulations around electrical substations; it was suggested that the visual impact of equipment housing would be similar to other transport infrastructure and other installations such as telecommunications cabinets.

It was also suggested that flexibility is required to ensure PDR can support the range of EV upstand technologies, for example including in locations that are not suitable for solar power.

Views on specific restrictions are considered further at Questions 8 to 10.

Concerns around PDR for equipment housing where solar canopies are not provided

Consistent with views on PDR for equipment associated with solar canopies, concerns raised around the proposed new PDR for equipment housing were focused on the impacts, and particularly on the potential visual impacts, of equipment housing. It was suggested that the proposed size restrictions would still allow for relatively large structures with potential for significant visual impact. Other comments included that:

- The visual impact of future development is unclear as EV upstand technology continues to develop.
- Other impacts, such as the potential for development to restrict the number of parking spaces or lead to the removal of significant landscaping or drainage features, with the former potentially having a knock-on effect on noise impact.

While it was acknowledged that equipment housing will be necessary for roll-out of charging infrastructure, there was also a suggestion that the potential impact of these structures warrants a planning assessment of proposals.

A contrasting view, from 'private sector - energy and transport' respondents, was that the proposed size criteria for equipment housing is overly restrictive for HPCs. Examples of HPCs with equipment housing requirements that would exceed proposals for the new PDR were cited, and it was also noted that larger installations can require a substation. It was suggested that the proposal as currently set out could limit the effectiveness of introducing PDR. There was also a query as to whether electrical substations and switching gear associated with upstands are to be included within PDR restrictions.

Suggestions for additions or amendments to the proposed new PDR included:

- Increasing the number and size of cabinets permitted under the PDR.
- Including a requirement that the colour of equipment housings is selected to minimise visual impact, for example via prior agreement with the planning authority.
- Including a requirement that development does not reduce the number of available parking spaces.
- Specifying limits on the noise permitted to be generated by upstands.

Question 8 – Do you agree with the list of areas within which new PDR for such solar canopies and related battery storage and equipment housing should not apply?

Responses to Question 8 by respondent type are set out in Table 9 below.

Table 9

Respondent type	Yes	No	Total
Organisations	27	9	36
% of organisations	75%	25%	100%
Planning authority	13	5	18
Professional or representative body	5	0	5
Public body or corporation	0	1	1
Private sector	6	3	9
<i>Energy and transport</i>	4	2	6
<i>Hospitality</i>	0	0	0
<i>Other</i>	2	1	3
Third sector	3	0	3
<i>Active travel</i>	0	0	0
<i>Community Council</i>	0	0	0
<i>Other</i>	3	0	3
Individuals	11	2	13
% of individuals	85%	15%	100%
All respondents	38	11	49
% of all respondents	78%	22%	100%

A majority of respondents – 78% of those answering the question – agreed with the list of areas within which new PDR for such solar canopies and related battery storage and equipment housing should not apply.

Around 45 respondents made a comment at Question 8.

Views on the proposed list of areas

Many of those commenting noted their agreement that the proposed PDR could have a negative impact on the listed areas. This included a view that development allowed under the new PDR could be relatively large and visually imposing. In terms of the areas listed, there was a view that the quality and character of the most sensitive built and natural heritage areas could be adversely affected by

inappropriate siting of development under the new PDR. Conservation areas and World Heritage Sites were identified as particularly sensitive to inappropriate development.

However, it was also noted that the areas in which the PDR would not apply could include specific developed sites where EV charging infrastructure would be unlikely to have a significant adverse impact. More generally, there was a view that the development of EV charging infrastructure should be supported but that there should be a more detailed planning authority assessment to mitigate negative impacts on sensitive environments. It was suggested that, to support roll-out, planning authorities should take a positive view of charging infrastructure and that the Scottish Government could assist by facilitating the sharing of knowledge around mitigation of visual impacts.

Other respondents went further, suggesting that the proposed list of areas is too wide-ranging and expressing concern that this could undermine efforts to increase deployment of EV charging infrastructure. For example, it was suggested that rollout of charging infrastructure will be particularly valuable for conservation areas and National Parks to maintain sustainable tourism in these locations. There was also reference to some planning authority areas that are subject to multiple designations, where it was suggested that rollout of charging infrastructure could be disproportionately affected by the proposed restrictions.

It was suggested that PDR could be extended to some of the listed areas without significant adverse impacts, including through use of Article 4 directions to address any concerns. This included specific reference to the potential value of PDR in conservation areas, National Scenic Areas and National Parks. A prior approval process with a default approval and deemed consent was suggested as an alternative approach to retaining a requirement to apply for planning permission in more sensitive locations, while allowing development where this will not have a negative impact.

Additional areas where PDR should not apply

Some of those raising concerns around the potential impact of development under the new PDR identified other locations which were considered inappropriate for PDR. These included:

- In the setting of listed buildings and their curtilage or, specifically, A listed buildings.
- In the setting of scheduled monuments.
- Where there are local or national landscape designations.
- The curtilage of a footway or path.

It was also suggested that suitable planning guidance will be required to ensure compliance with proposed PDR restrictions, for example with respect to the size and location of solar canopies and associated equipment.

Question 9 – Do you agree with the suggested height limit of 4 metres on PDR for solar canopies for EV charging upstands in off-street parking areas?

Responses to Question 9 by respondent type are set out in Table 10 below.

Table 10

Respondent type	Yes	No	Total
Organisations	22	10	32
% of organisations	69%	31%	100%
Planning authority	10	6	16
Professional or representative body	2	1	3
Public body or corporation	0	0	0
Private sector	6	2	8
<i>Energy and transport</i>	3	2	5
<i>Hospitality</i>	0	0	0
<i>Other</i>	3	0	3
Third sector	4	1	5
<i>Active travel</i>	2	0	2
<i>Community Council</i>	0	0	0
<i>Other</i>	2	1	3
Individuals	10	4	14
% of individuals	71%	29%	100%
All respondents	32	14	46
% of all respondents	70%	30%	100%

A majority of respondents – 70% of those answering the question – agreed with the suggested height limit of 4 metres on PDR for solar canopies for EV charging upstands in off-street parking areas.

Around 40 respondents made a comment at Question 9.

Support for the proposed height limit

Reasons given for supporting the proposed 4 metre height limit on solar canopies included that it strikes the right balance between supporting use of renewable energy in the rollout of EV charging infrastructure and mitigating any amenity impacts.

There was reference to the importance of restrictions on the proposed PDR for solar canopies, especially limits on PDR in designated areas and within 10 metres of residential dwellings or 5 metres of a road. While it was acknowledged that 4 metre solar canopies would be substantial structures, it was suggested that restricting such development to off-street parking outwith designated areas would limit potential for adverse impacts. It was also noted that a 4 metre limit is similar to thresholds set for other PDR.

Concerns around the proposed height limit

Consistent with views on other aspects of the new PDR, concerns raised around the proposed 4 metre height limit on solar canopies were often focused on the potential impact of such development.

A number of respondents, including some 'planning authority' respondents, suggested that the proposed height restriction is too high and would still allow development of substantial structures with the potential for significant visual impact. In particular, while it was noted that structures of this size would have little impact in large scale commercial or retail parking areas, there was a concern that a 4 metre structure could have a significant impact in residential and town centre parking areas. Further comments included that:

- Existing sites may have been selected due to their limited impact at certain heights.
- The proposed height limit is higher than that for other infrastructure in residential areas, such as bus shelters (at 2.5 - 3 metres).
- The proposed new PDR would allow development within close proximity of schools and hospitals, where structures of this scale may not be appropriate.

Reference was also made to potential for other aspects of development design to add to the impact of solar canopies. This included concerns around:

- Their location, and the number of canopies installed at a single location.
- The surface area of canopies. It was noted that the proposed new PDR does not restrict surface area and it was suggested that it should.

A small number of 'private sector - energy and transport' respondents suggested that a height limit of 4 metres may not be sufficient to accommodate taller EVs. They proposed height limits of 5-6 metres to ensure that all vehicles can access charging upstands. It was noted that an overall height limit must take account of the required clearance height of the lowest point of the canopy, and the need to angle the canopy to maximise solar generation.

Other suggestions for addition or amendment to the proposed height limit for the new PDR included:

- Restrictions on the length and depth or surface area of canopies.
- Restrictions on the number of canopies installed at a single location.

Question 10 – Do you agree with the proposal that any new PDR for solar canopies, battery storage and equipment housing for EV charging upstands in off-street parking areas should not apply within 5 metres of a road and 10 metres of the curtilage of a dwelling?

Responses to Question 10 by respondent type are set out in Table 11 below.

Table 11

Respondent type	Yes	No	Total
Organisations	29	2	31
% of organisations	94%	6%	100%
Planning authority	16	0	16
Professional or representative body	3	0	3
Public body or corporation	0	0	0
Private sector	6	2	8
<i>Energy and transport</i>	4	2	6
<i>Hospitality</i>	0	0	0
<i>Other</i>	2	0	2
Third sector	4	0	4
<i>Active travel</i>	2	0	2
<i>Community Council</i>	0	0	0
<i>Other</i>	2	0	2
Individuals	8	6	14
% of individuals	57%	43%	100%
All respondents	37	8	45
% of all respondents	82%	18%	100%

A substantial majority of respondents – 82% of those answering the question – agreed that any new PDR for solar canopies, battery storage and equipment housing for EV charging upstands in off-street parking areas should not apply within 5 metres of a road and 10 metres of the curtilage of a dwelling. ‘Private sector – energy and transport’ and ‘individual’ respondents were the only groups in which not all respondents agreed.

Around 45 respondents made a comment at Question 10.

Comments in support of the proposed restrictions included that they will be necessary for mitigating the impact of solar canopies, battery storage and equipment housing while also enabling the appropriate rollout of EV charging infrastructure.

There was specific support for restricting PDR within 5 metres of a road with this seen as necessary to avoid potential impacts on road safety and visibility splays, as well as potential visual and amenity impacts. It was also suggested that, while development of EV charging infrastructure within these limits may be acceptable, a detailed assessment would be required to determine whether this was the case.

In relation to limiting the PDR within 10 metres of the curtilage of a dwelling, it was suggested that this kind of development in close proximity to residential dwellings could have a significant adverse impact in terms of overshadowing and loss of amenity; there was a view that a 10 metre distance from the curtilage of a dwelling may not be sufficient in all circumstances. Further comments included that:

- The potential visual and noise impacts can be greater in some locations, for example where landscaping is not present to absorb some of those impacts. In this context, there were calls for clarity on how the proposed distances have been calculated.

- Potentially sensitive locations, such as schools or hospitals, would not benefit from the proposed restriction. It was suggested that a 10 metre stand-off distance should apply to these sites.

However, some ‘private sector – energy and transport’ respondents described the proposed limits on PDR as overly restrictive and expressed concerns that they could constrain development of EV charging infrastructure unnecessarily. The benefits associated with use of solar power for EV charging in supporting delivery against climate targets, minimising strain on the electricity grid and reducing consumer costs were all cited. It was also argued that that:

- The definition of ‘road’ would include foot and cycle paths, further limiting the locations where PDR would apply.
- Allowing solar canopies within 10 metres of dwellings could enable delivery of renewable energy benefits for these dwellings.

Other suggestions for addition or amendment to the proposed restrictions on PDR within 10 metres of a residential dwelling or 5 metres of a road included:

- Alternative limits of 5 metres from the curtilage of a dwelling and 2 metres from a road.
- Clarification of the definition of ‘road’, for example noting that this could include verges and footways in accordance with the Roads (Scotland) Act 1984.

On-street/Kerbside Charging

The consultation paper notes that projected increases in EV ownership, including from people who do not have access to off-road parking, is likely to result in increasing demand for on-street charging points. It is also noted that on-street charging infrastructure could have impacts on the built and natural heritage, local amenity, and parking and traffic flows. The paper acknowledges that visual or physical obstructions in the street may disproportionately affect certain groups.

The potential for different delivery models to emerge for public EV charging infrastructure is also noted, including an increasing role for the private sector in financing, installing and operating infrastructure. While Class 30 of the GPDO (relating to structures for local authority services) could be clarified to apply to EV charging infrastructure, the relevance of Class 30 for future EV development would depend on the role of any private sector interests in delivery and administration of infrastructure. As such, and in recognition of potential access and amenity issues, this section of the consultation paper sought views rather than setting out specific proposals.

Question 11 – Would it be helpful to amend Class 30 PDR for local authorities to make clear they apply to EV charging points and any associated infrastructure?

Responses to Question 11 by respondent type are set out in Table 12 below.

Table 12

Respondent type	Yes	No	Total
Organisations	24	8	32
% of organisations	75%	25%	100%
Planning authority	13	5	18
Professional or representative body	3	0	3
Public body or corporation	0	0	0
Private sector	6	0	6
<i>Energy and transport</i>	3	0	3
<i>Hospitality</i>	0	0	0
<i>Other</i>	3	0	3
Third sector	2	3	5
<i>Active travel</i>	1	2	3
<i>Community Council</i>	0	0	0
<i>Other</i>	1	1	2
Individuals	10	8	18
% of individuals	56%	44%	100%
All respondents	34	16	50
% of all respondents	68%	32%	100%

A majority of respondents – 68% of those answering the question – thought it would be helpful to amend Class 30 PDR for local authorities to make clear they apply to EV charging points and any associated infrastructure. ‘Third sector’ respondents were the only group in which a majority did not think so.

Around 45 respondents made a comment at Question 11.

Support for amending Class 30 PDR

Issues raised by those supporting the amendment of the Class 30 PDR included that a clarification would be welcome and should help to minimise the potential for confusion, including because Class 30 does not currently include any explicit reference to EV charging. A ‘planning authority’ respondent noted that their Roads Authority does not currently adopt EV charging points after installation.

There was also support for a consistent approach across Scotland and for enabling local authorities to install and operate EV infrastructure. It was suggested that an amendment could not only enable business opportunities for local authorities but also ensure more widespread provision of EV charging infrastructure. It was also thought that a co-ordinated approach to delivery of charging infrastructure by, or on behalf of, the local authority, could be more cost efficient.

Concerns raised around amending Class 30

Other respondents did not see any need for clarification of Class 30 PDR, with further comments including that the current Class 30 is clear in providing planning authorities with broad powers. It was suggested that the PDR does not need to be exhaustive in terms of the types of development covered, and that making specific reference to certain types of development could actually be unhelpful, potentially creating uncertainty when assessing other types of development.

There were also concerns about any use of PDR to enable development of on-street EV charging infrastructure and it was suggested that EV charging should be limited to off-street parking and roadways. There was reference to the potential for additional ‘pavement clutter’ to have an adverse impact on certain groups, such as disabled people. While it was acknowledged that EV charging development would still be subject to existing consent requirements, it was also suggested that:

- These requirements have not been effective to date in preventing obstructions caused by other PDR.
- Planning authorities may not have the resources necessary to ensure that any negative, equality-related impacts are mitigated.

In relation to on-street EV charging, it was suggested that appropriate controls would be required to ensure access routes are not adversely affected by EV charging development. It was also thought that clear guidelines for commercial operators delivering roadside charging infrastructure would be beneficial.

Question 12 – Do local authority PDR need to be amended to take account of emerging models for financing, delivering and operating EV charging infrastructure, and the changing nature of private sector involvement?

Responses to Question 12 by respondent type are set out in Table 13 below.

Table 13

Respondent type	Yes	No	Total
Organisations	24	4	28
% of organisations	86%	14%	100%
Planning authority	13	4	17
Professional or representative body	3	0	3
Public body or corporation	0	0	0
Private sector	6	0	6
<i>Energy and transport</i>	3	0	3
<i>Hospitality</i>	0	0	0
<i>Other</i>	3	0	3
Third sector	2	0	2
<i>Active travel</i>	0	0	0
<i>Community Council</i>	0	0	0
<i>Other</i>	2	0	2
Individuals	4	6	10
% of individuals	40%	60%	100%
All respondents	28	10	38
% of all respondents	74%	26%	100%

A majority of respondents – 74% of those answering the question – thought that local authority PDR do need to be amended to take account of emerging models for financing, delivering and operating EV charging infrastructure, and the changing nature of private sector involvement. A minority of ‘planning authority’ and a majority of ‘individual’ respondents thought they did not.

Around 40 respondents made a comment at Question 11, with some referring back to previous answers, and others commented only that change is not needed.

Support for amending PDR to take account of emerging models

In addition to general comments in support of an amendment, a frequently-made point was that amendments could enable planning authorities to work in partnership with third parties, including private providers. There was comparison with provisions for statutory undertakers, which allow PDR to apply to third parties working on behalf of the statutory undertaker. In this context, it was suggested that clarifying Class 30 to allow for partnership approaches would be valuable across a range of local authority-led development and would not need to make specific reference to EV charging.

Those in favour of amending PDR highlighted potential benefits of allowing new forms of private sector involvement. These were primarily focused on the need for greater flexibility and agility in the rollout of charging infrastructure to encourage private investment and support more universal access, with particular reference to the anticipated future scale of need for EV charging. Reference was also made to opportunities for EV charging points to provide a revenue stream for public benefit. Consistency of development standards was also a particular concern for some respondents, with a call for planning legislation and guidance to ensure a consistent approach, both across Scotland and across different models of funding delivery and operation.

Reasons why amendment is not required

Some respondents, among them some 'planning authority' respondents, did not think that amendments are required. Comments included that the existing PDR allows for works to be carried out by private developers on behalf of the local authority, and that joint arrangements between local authorities and partner bodies are commonly used across other forms of development.

Issues or concerns to be addressed

In terms of issues to be considered if an amendment is taken forward, suggestions included that some degree of public oversight of EV charging infrastructure development is required. It was suggested that this public oversight should be maintained either through private contractors working under the control of local authorities, for example through region-wide agreement for a private operator to manage the assets, or by retaining planning control for any fully private development.

In relation to a greater role for the private sector, there was a concern that allowing multiple providers to develop EV charging could lead to a proliferation of charging points and furniture, negatively impacting accessibility for street users. It was reported that PDR for private development of other infrastructure has resulted in a worsening of pedestrian access in places.

There were also questions about how the local authority PDR could be amended effectively if the nature of future models of financing, delivering and operating EV

charging infrastructure are not yet known. There was thought to be a need for a detailed assessment of emerging models to identify any issues, and to ensure any associated PDR are framed properly.

Question 13 – Should PDR for EV charging infrastructure in roads apply to parties other than local authorities? Please explain your answer.

Responses to Question 13 by respondent type are set out in Table 14 below.

Table 14

Respondent type	Yes	No	Total
Organisations	12	17	29
% of organisations	41%	59%	100%
Planning authority	4	11	15
Professional or representative body	1	2	3
Public body or corporation	1	0	1
Private sector	5	1	6
<i>Energy and transport</i>	2	1	3
<i>Hospitality</i>	0	0	0
<i>Other</i>	3	0	3
Third sector	1	3	4
<i>Active travel</i>	0	2	2
<i>Community Council</i>	0	0	0
<i>Other</i>	1	1	2
Individuals	8	6	14
% of individuals	57%	43%	100%
All respondents	20	23	43
% of all respondents	47%	53%	100%

A small majority of respondents – 53% of those answering the question – did not think PDR for EV charging infrastructure in roads should apply to parties other than local authorities. While a majority of ‘private sector’, ‘public body or corporation’ and ‘individual’ respondents thought it should apply, a majority of ‘planning authority’, ‘professional or representative body’ and ‘third sector’ respondents thought it should not.

Around 40 respondents made a comment at Question 13.

Reasons why a PDR should not apply to other parties

A number of respondents gave reasons for why they did not think a PDR should apply to other parties. These included the risk of ‘clutter’ on roads and other public spaces. It was suggested that other PDR for in-road development have already caused issues in some locations, and there was reference to ongoing efforts by local authorities to improve the design, appearance and usability of town and city centres.

The associated concern was that proposed restrictions on PDR and other non-planning controls are not sufficient to ensure in-road EV charging infrastructure is properly designed and located. Although the role of non-planning controls was

acknowledged, including that they could be sufficient to ensure that charging points themselves do not cause an obstruction, there were thought to be other issues. For example, it was noted that parked cars using the charging points may also cause obstruction or other adverse impacts, and there was concern that controls will not be sufficient to avoid development in locations where this may be a problem.

In this context, there was concern that non-local authority PDR could lead to a proliferation of inappropriately located and designed EV charging infrastructure. There were particular concerns in relation to more sensitive locations such as conservation areas and World Heritage Sites, with several respondents calling for any extension of PDR to be restricted in these areas. It was suggested that Article 4 directions would not be sufficient to limit the impact of wider PDR on these areas, including concerns that planning authorities lack the resources required to implement Article 4 directions for each conservation area.

A specific issue raised in relation to amenity was the potential for EV charging infrastructure to restrict accessibility for wheelchairs, mobility vehicles and pushchairs/prams; an associated point was that other parties may not be subject to the equalities duties that apply to planning authorities and other statutory undertakers.

Some respondents also referred to the risk of unsafe infrastructure remaining in the public realm, for example if third party operators cease to trade. In this context, there were calls for clarity on which parties would have longer-term responsibility for EV charging infrastructure in roads, including removal of obsolete infrastructure.

In addition to the above concerns around the potential adverse impacts of EV charging infrastructure delivered under PDR, reference was also made to the importance of a co-ordinated approach to the location and design of charging infrastructure. This was described as essential to ensure integration with other facilities and transport infrastructure, and ultimately to encourage more sustainable travel choices. It was noted that delivery of EV charging should take account of patterns of demand for EV charging, the accessibility of charging infrastructure, and opportunities for EV charging to be co-located with other facilities and transport links. Respondents cited examples of ongoing work by local authorities to develop a strategic approach to EV charging as part of a wider model shift towards more sustainable travel. There was concern that extending PDR to other parties could undermine this work.

Finally, several of those opposed to PDR for other parties suggested that the change would be premature, noting that new models of delivery are yet to emerge. It was suggested that new PDR should be formulated as delivery models involving other parties develop, with both responsibility for EV infrastructure and the process for providers seeking to obtain the required consents among the issues to be considered.

Reasons for PDR to apply to other parties

Reflecting views covered at Question 12, some of those in favour of new PDR for other parties saw this as necessary to deliver the scale of new EV charging

infrastructure required to meet anticipated future demand. It was also suggested that future delivery of EV charging infrastructure will require a greater role for the private sector, and that PDR will be required to minimise barriers to private sector investment.

Those in favour of new PDR also referred to other protections, including roads legislation; it was argued that these protections safeguard the amenity of public spaces and ensure that safety implications are considered. It was suggested that the planning system should not seek to duplicate these controls. Reference was also made to restrictions on existing local authority PDR and that development must not create obstruction to the view of road users.

Existing PDR for statutory undertakers within public roads were cited as a potential model for a new PDR for other parties in relation to EV charging. Respondents also wished to see PDR reflect other potential delivery models, such as private providers developing charging infrastructure on local authority land, with the local authority retaining control through its internal management. In terms of specific parties or sectors to which PDR could be extended, it was suggested that electrical transmission companies would be competent to ensure installation to a consistent standard and type across local authority areas.

Proposed restrictions on any PDR for other parties

While some respondents referred to the role of existing regulation and other controls to minimise the impact of development in roads and public spaces, it was also acknowledged that careful formulation of PDR will be required. In particular, it was stressed that PDR must not allow inconsistent standards of installation by private providers, including because of the potential for negative impacts on the wider public network.

Specific suggestions for conditions and restrictions to be applied to any new PDR for other parties included:

- Use of prior notification/prior approval or other authorisation process to retain some planning authority control on the impact of EV charging points.
- Restrictions on PDR in designated locations, including conservation areas and World Heritage Sites.
- Restrictions on the number of charging points within a specified area.
- Conditions to ensure footways are maintained.
- Conditions to ensure all EV charging infrastructure meets accessibility standards, and does not impede accessibility of public places.

Question 14 – If so, would such PDR for other parties need to be linked to some arrangement with local authorities or other form of authorisation?
Please explain your answer.

Responses to Question 14 by respondent type are set out in Table 15 below.

Table 15

Respondent type	Yes	No	Total
Organisations	22	2	24
% of organisations	92%	8%	100%
Planning authority	13	1	14
Professional or representative body	3	0	3
Public body or corporation	0	0	0
Private sector	4	1	5
<i>Energy and transport</i>	2	0	2
<i>Hospitality</i>	0	0	0
<i>Other</i>	2	1	3
Third sector	2	0	2
<i>Active travel</i>	0	0	0
<i>Community Council</i>	0	0	0
<i>Other</i>	2	0	2
Individuals	9	2	11
% of individuals	82%	18%	100%
All respondents	31	4	35
% of all respondents	89%	11%	100%

A substantial majority of respondents – 89% of those answering the question – thought that if PDR were to be introduced, it would need to be linked to some arrangement with local authorities or other form of authorisation. All but one ‘planning authority’, one ‘private sector - other’ and two ‘individual’ respondents agreed.

Around 25 respondents made a comment at Question 14. Those who had not agreed and who commented tended to refer to their answer at the previous question.

Issues raised by those who agreed sometimes reflected concerns raised at the previous question in relation to ‘clutter’ and adverse impacts on the amenity, accessibility and safety of public streets. Reference was also made to a need for consistency in standards of in-road development.

Respondents also highlighted the role of the Roads Authority and roads legislation in relation to in-road development. This included a view that roads legislation and consent would be sufficient to address issues relating to public safety, visibility and equality. However, it was also suggested that these controls are unlikely to be sufficient to mitigate potential visual amenity impacts.

Several suggestions were made for potential mechanisms to ensure appropriate authorisation or control of EV charging infrastructure development by third parties. These included:

- Instruction or approval by the local authority as a condition of any PDR for third party development of EV charging infrastructure. However, concerns were also raised around the potential additional burden on local authorities, and that limited resources could lead to delays in development of EV charging infrastructure.

- Authorisation or control managed through partnership or contractual agreements with third parties. This included reference to potential for local authorities to establish overarching agreements to allow designated operators to install infrastructure within their local authority area.
- Prior notification/prior approval, for example to address matters of visual amenity. The approach to telecommunications development was referenced as a potential model, although a concern was also raised that use of prior approval in relation to Class 67 telecommunications applications can lead to confusion amongst members of the public.

Question 15 – What conditions and limitations would need to be placed on any additional PDR for EV charging infrastructure in roads?

Around 30 respondents made a comment at Question 15, with most suggesting conditions or limitations for additional PDR.

Restrictions were seen as essential to manage the impact of EV charging infrastructure and to ensure that development is part of a co-ordinated approach that also incorporates active travel and public transport. There was also a call for integration of EV charging infrastructure with car-dependent land uses such as car parking which, it was argued, would be consistent with promoting walking and cycling in town centres, in line with the 20-minute neighbourhood approach.

Other general comments included both that the relationship of the planning system to the Roads (Scotland) Act 1984 needs to be clarified, and an expectation that Road Openings Consent would still be required. Some respondents proposed a role for prior notification/prior approval, with suggestions that this would allow both consultation with transportation on public highway impacts and an opportunity to mitigate potential effects on non-designated historic environment assets.

There was also a call for Scottish Government best practice guidance to inform development.

Suggested conditions for any additional PDR

In terms of specific suggestions for restrictions on any additional PDR, restrictions on location were most commonly raised in relation to sensitive areas. Specific suggestions included the designated areas set out at Classes 9E and 9F, listed buildings and their curtilage, and the setting of these and of scheduled monuments.

A range of respondents called for restrictions to ensure that development does not hinder active travel by obstructing either footways or cycleways, with specific concerns raised with respect to maintaining safe access for older people, people with disabilities and people using buggies. Suggested restrictions to ensure access to footways is protected included that:

- A minimum width of footway and appropriate visibility splays should be retained.
- Chargers should be placed on the carriageway not the footway.

- Chargers should be placed at the kerbside to avoid trip hazards being created by trailing cables and foundations should be flush.
- Footways and kerbs should be reinstated after installation.
- Obsolete equipment should be removed.

It was also argued that chargers should not be placed either on existing cycle ways or such that opportunities for future cycle lanes or other active travel infrastructure are reduced. In this context, it was suggested restricting charging points to side roads would allow future installation of protected cycle lanes on arterial routes or high streets.

The importance that road widths, visibility splays, surfacing, accessibility and safety should not be compromised was highlighted, as was the need for agreement on the stand-offs for cable connections around parking spaces. Consideration of how any PDR would take account of resident parking permit schemes was also recommended.

Respondents also suggested restrictions to limit:

- The visual impact of EV charging infrastructure, including the dimensions or colour of charging equipment. Again, restrictions set out at Classes 9E and 9F were suggested as a model for restrictions on additional PDR.
- Noise associated with EV charging infrastructure. It was reported that some on-street broadband and telecoms infrastructure units generate excessive noise, and it was argued that the risk that EV infrastructure generates similar noise should be considered.

Question 16 – In relation to extending PDR for EV charging infrastructure in roads, what issues need to be considered regarding existing PDR, and rights to access the roads network, for infrastructure which are available to other sectors, such as electricity undertakers?

Around 35 respondents commented at Question 16.

A range of respondents highlighted the importance of the relationship between development of EV charging infrastructure and other infrastructure. Most comments referenced essential utilities such as electricity, water, gas and telecommunications, although links with other travel infrastructure such as cycle ways were also noted.

Respondents noted the potential for conflict between development of EV charging infrastructure and other utilities and infrastructure, including competing interests for available road space, both above and below ground. Robust processes and regulation were sought to avoid conflict, including defined clearances between EV charging points and other infrastructure to ensure safe access.

Some respondents highlighted the extensive PDR already in place for statutory undertakers or its relevance to EV charging, for example in terms of connecting

infrastructure to the electricity network and below ground installation of infrastructure.

Simplification of the current regulatory processes around in-road development, and/or production of guidance on the interaction of existing powers were suggested as a means of dealing with potential conflicts between PDR. There were also calls for clarification of the relative priority of existing and new PDR, including Roads Authority PDR, the requirement to maintain the road and public right of passage, and utilities' PDR. For example, it was suggested that Roads Authority and/or utilities PDR should be prioritised over provision of EV charging infrastructure, with a suggestion that changes to Roads Authority plans can be costly.

Some respondents saw a need for a co-ordinating role, both to ensure that EV charging development under any additional PDR will not affect other infrastructure, and to minimise impacts and costs. There were concerns that requiring planning authorities to co-ordinate in-road development rights would add significant burden to the planning system and it was suggested that Roads Authorities would be suitable for this co-ordinating role.

Some also saw potential for a more co-ordinated approach to infrastructure delivery to consider opportunities to streamline infrastructure. This included reference to potential for sharing of apparatus, and for new development to consider extending existing infrastructure where possible.

Reflecting the range of issues identified above, respondents made several specific suggestions for approaches that could help to minimise or deal with any conflict with existing PDR and rights to access the roads network. These included that:

- All EV infrastructure should be recorded to ensure statutory undertakers have access to this information.
- Any new PDR for EV charging infrastructure should include a requirement for the responsible organisation to consult with relevant statutory undertakers before commencing works, to ensure that existing and planned infrastructure is not affected.
- Technical guidance and/or a code of practice should be agreed by local authorities, providers of EV charging infrastructure, and other statutory undertakers. Existing guidance, for example on cable depth and marking was also referenced.
- Existing PDR for other infrastructure should exclude EV charging, such that EV charging infrastructure sits under a single class of PDR.
- Further PDR for district network operators should be considered to ensure supply of mains power to EV charging units.

Changes to Existing Petrol Stations

The consultation paper notes that existing stations providing petrol and/or diesel may, in the future, wish to convert to EV charging hubs and that this is likely to

require a change to the buildings and structures on each site, for example to provide solar canopies and battery storage.

Additional PDR are therefore being considered to allow such conversions. It is proposed that any such PDR would be subject to conditions and limitations that: (i) the area of physical development is not increased; (ii) replacement buildings or structures are no higher than those they are replacing; and (iii) no changes to access arrangements to the road would be allowed without planning authority agreement.

Question 17 – Do you agree in principle with having PDR for changing existing petrol/diesel stations to EV charging only?

Responses to Question 17 by respondent type are set out in Table 16 below.

Table 16

Respondent type	Yes	No	Total
Organisations	28	4	32
% of organisations	88%	12%	100%
Planning authority	16	3	19
Professional or representative body	4	0	4
Public body or corporation	0	0	0
Private sector	5	1	6
<i>Energy and transport</i>	3	0	3
<i>Hospitality</i>	0	0	0
<i>Other</i>	2	1	3
Third sector	3	0	3
<i>Active travel</i>	1	0	1
<i>Community Council</i>	0	0	0
<i>Other</i>	2	0	2
Individuals	10	4	14
% of individuals	71%	29%	100%
All respondents	38	8	46
% of all respondents	83%	17%	100%

A substantial majority – 83% of those who answered the question agreed in principle with having PDR for changing existing petrol/diesel stations to EV charging only.

Around 40 respondents provided an additional comment.

Support for PDR for converting petrol stations to EV charging

Several of those expressing support for the proposed new PDR highlighted the potential benefits of converting filling stations to EV charging, both in terms of meeting the anticipated increase in demand for EV charging and achieving a transition to net zero. It was also suggested that delivering additional EV charging infrastructure through conversion of existing stations could help to ease pressure on available capacity for on-street development.

A range of respondents referred to specific benefits associated with delivering EV infrastructure through conversion of existing infrastructure, rather than 'new' development. This included suggestions that conversion to EV charging is likely to have little additional visual impact relative to existing petrol stations, and would represent continuation of an established vehicle refuelling land use on sites that are already in appropriate locations. It was suggested that the PDR could help to sustain the operation of existing stations as use of petrol and diesel are phased out, and that other options for redevelopment of these sites could be more challenging.

It was also thought that there may be circumstances where change of use is required – for example if stations wish to incorporate more café/restaurant facilities for customers to use while waiting for cars to charge. It was suggested that PDR could allow limited Class 3 Food and Drink use, for example for consumption on-site and within a floorspace threshold.

There were differing views on whether a prior approval process might be appropriate – both that it is not needed and that it should be considered for new structures.

Concerns or limitations around PDR for converting petrol stations

A small number of respondents took a view that conversion to EV charging is potentially a significant change that should require planning permission, or that not all existing locations may be suitable for EV charging infrastructure. These respondents saw a need for full planning scrutiny to be retained. There was also a narrower point, that the PDR should not apply to additional structures for retail purposes, which should be subject to planning controls.

It was also suggested that, since EV charging will take significantly longer than filling a vehicle with petrol/diesel, the space available in existing forecourts may be limited, creating potential traffic and road safety issues.

Some respondents considered that restrictions or conditions are required to avoid inappropriate development. Examples included limits on the scale of any replacement buildings or structures, or on changing access arrangements. It was also noted that change of use could lead to changes in noise impact, and there were calls for this to be reflected in any new PDR. Views on the need for any additional restrictions or conditions are considered in more detail at Question 18.

Additional concerns were highlighted around potential for loss of petrol/diesel supply in remote and rural areas, where these were described as 'lifeline facilities'. Continuing fossil fuel demand from agricultural vehicles was noted in particular.

Hybrid stations

Although the question references changing 'to EV charging only' some respondents saw potential in the short to medium term for 'hybrid' stations, combining both fossil fuels and EV charging and there was a call for PDR to allow for development of *any* EV charging infrastructure on these sites, rather than only for wholesale conversion to EV charging.

However, concerns were also expressed with respect to safe operation of EV chargers on stations that continue to sell petrol. It was noted that there is currently no requirement to notify the Petroleum Enforcement Authority (PEA) that EV chargers are being installed, so they may receive this information only when asked to respond to a planning application. If the opportunity to advise on safe installation at the planning stage is lost, it was argued that the risk of later PEA enforcement action may increase.

Question 18 – If so, what, if any, further specification of the conditions and limitations identified, or additional ones, would be required for such?

A total of 35 respondents provided comment at Question 18, with many of these raising points for clarification and/or suggesting restrictions on any additional PDR. This reflected the perceived importance of restrictions on PDR in managing the impact of development, including support for restrictions set out in the consultation paper to limit the overall development area, the scale of EV charging infrastructure, and changes to access arrangements. It was suggested that a new use class for EV charging stations may be useful in enabling planning authorities to manage the development of these facilities over time.

Some respondents raised specific concerns regarding the proposed condition that there should be ‘no changes to the access arrangements to the road, unless otherwise agreed with the planning authority’. How this would be controlled in the absence of a formal planning process was queried.

Other conditions and limitations

Specific suggestions for conditions or limitations on the proposed PDR included:

- Restrictions in sensitive areas, such as those listed at Classes 9E and 9F.
- Restrictions to ensure PDR only permits change of function from fossil fuels to EV charging, and excludes any ancillary development such as car wash bays or cafes.
- Conditions to ensure that sufficient visitor space for retail uses is retained.
- Restrictions on any significant visual changes to existing petrol stations, including controls on advertising and any change to the colour or design of sites.
- Restrictions to limit adverse visual impacts from glint and glare. Whether the new PDR proposed for solar canopies and battery storage would apply to these sites was queried.
- Restrictions on any additional noise impacts, with particular concerns around potential noise impacts associated with fast charging units. It was argued there should be additional noise assessments and acoustic barriers, or restrictions on hours of operation where noise is an issue.
- A requirement for removal of obsolete canopies, including for example where businesses cease trading.

- A requirement to locate facilities a certain distance from the perimeter of the site.

Safety concerns were also highlighted, both where sites combine fossil fuels and electrical charging and where storage of fossil fuels is discontinued. In the first case it was suggested that filling station operators should be instructed to take advice (preferably from the PEA) regarding potential effects on the safe storage of petrol on site and that that chargers should be located at a certain distance from petrol pumps and car washes. Incorrect installation of EV chargers was reported to be taking place even under current planning restrictions.

When storage of fossil fuels is discontinued it was thought important that operators are aware of their obligation to follow notification procedures under the Petroleum Consolidation Regulations 2014, to ensure proper decommissioning before installation of EV chargers. A requirement to ensure proper consideration of underground structures associated with existing fossil fuel stations was also highlighted.

Among other safety risks identified were that:

- Longer charging times could result in queuing traffic on public roads.
- Solar glare could impact flight paths and aviation safety. A requirement to notify the Civil Aviation Authority of any proposed development incorporating solar canopies in the vicinity of an aerodrome was proposed.

Some 'planning authority' respondents highlighted issues in relation to potentially contaminated land, with a call for any new PDR to reflect requirements under Part IIA of the Environmental Protection Act 1990 (EPA) and Planning Advice Note (PAN) 33 relating to site investigation and remediation, and prevention of pollution or risk to human health. One 'planning authority' respondent noted that they would require a planning application for sites at high risk of contamination to ensure proper assessment of any remediation measures that may be required.

3. Changes of Use in Centres

The consultation paper notes that, in respect of planning, the core recommendations of the Town Centre Review Group⁴ focused on policy-based measures rather than deregulatory tools such as PDR or the Town and Country Planning (Use Classes) (Scotland) Order 1997 (UCO). In particular, it advocated strengthening national planning policy status of centres through the fourth National Planning Framework (NPF4).

NPF4 was published in draft by the Scottish Government in November 2021 for a period of public consultation. The document contains several policies that are intended to support the resilience and recovery of Scotland's centres (Policy 24: Centres, Policy 25: Retail, Policy 26: Town Centre First Assessment and Policy 27: Town Centre Living).

The planning system in Scotland is plan-led and NPF4 will be part of the statutory development plan against which planning applications are determined. Accordingly, the NPF4 is considered the most important lever for achieving the Scottish Government's long-term planning policy objectives for our city, town and local centres. Nevertheless, given the scale of the challenge and reflecting the commitment (made in the joint [Scottish Government/COSLA response to the Review Group's Report](#), the Scottish Government is seeking views on how UCO or PDR changes could support recovery.

Potential changes to the UCO

The Town Centre Review Group suggested that the Scottish Government should consider "the desirability of a revision perhaps to a more general Town Centre Use Class". However, the UCO is not a spatial tool and therefore any changes would therefore apply in all locations, not just in centres. A "general town centre use class" would involve the establishment of a new class which brings together a variety of uses which are commonly found in (or associated with) city, town and local centres but which currently sit in separate use classes.

The consultation paper notes that, if a new, merged use class were to be taken forward, a critical consideration is what uses should be included within it. It suggested that, arguably, uses falling within Class 1 (shops), Class 2 (financial and professional services), Class 3 (food and drink), Class 4 (business), Class 7 (hotels and hostels), Class 10 (non-residential institutions) and Class 11 (assembly and leisure) can be characterised as "town/city centre uses". It also notes that a number of sui generis⁵ uses (e.g. theatres, pubs, hot food takeaways, flats and student

⁴ In July 2020 the Scottish Government established The Town Centre Review Group, which was asked to develop ideas and recommendations on town centres can be made greener, healthier and more equitable. The Review Group published its report, [A New Future for Scotland's Town Centres](#), in February 2021.

⁵ Sui generis – in a class by itself. So, for example, a change of use of a building to use as a theatre or from use as a theatre is not excluded from 'development' by the UCO. Whether such

accommodation) are also features of centres, as are residential uses within Classes 8, 8A and 9.

Question 19 – Do you consider that a merged use class bringing together several existing classes would help to support the regeneration, resilience and recovery of Scotland’s centres? Please explain your answer.

Responses to Question 19 by respondent type are set out in Table 17 below.

Table 17

Respondent type	Yes	No	Total
Organisations	26	14	40
% of organisations	65%	35%	100%
Planning authority	6	8	14
Professional or representative body	4	1	5
Public body or corporation	0	1	1
Private sector	10	0	10
<i>Energy and transport</i>	0	0	0
<i>Hospitality</i>	4	0	4
<i>Other</i>	6	0	6
Third sector	6	4	10
<i>Active travel</i>	3	0	3
<i>Community Council</i>	0	1	1
<i>Other</i>	3	3	6
Individuals	8	2	10
% of individuals	80%	20%	100%
All respondents	34	16	50
% of all respondents	68%	32%	100%

A majority of respondents – 68% of those answering the question – considered that a merged use class would help to support the regeneration, resilience and recovery of Scotland’s centres. All ‘private sector’ respondents supported a merged use class, as did most ‘professional or representative body’ respondents. ‘Planning authority’ and ‘third sector’ respondents were divided on this issue.

Around 50 respondents made a comment at Question 19.

Support for a focus on town centres

A number of respondents, including both those who supported a merged use class and those who did not, noted their support for a focus on the recovery of Scotland’s town centres. Further comments included that the built environment has a significant role to play in supporting regeneration of town centres as they look to the future and post-pandemic recovery. There was reference to their value as a focus for economic, cultural and social interaction and their regional and national functions as activity hubs.

changes are ‘development’ depends on whether the change of use is material in the circumstances of the case.

It was suggested that planning regulations and policy should proactively support the creation of sustainable and accessible town and city centres that have the range of amenities which means people both need and want to visit. There were also general observations about the essential role planning services play in supporting town centres, for example through the preparation of Local Development Plans (LDPs), Local Place Plans, site briefs, Town Centre Management Plans and, potentially, through emerging Masterplan Consent Areas (MCAs).

Some 'planning authority' respondents referred to their own policy approaches, including applying the Town Centre First Principle to put the health of town centres at the heart of proportionate and best value decision making.

However, there was also a view that proposals to merge use classes might be pre-emptive without first evaluating the existing use class categories as to whether they are fit-for-purpose for the modern era.

Reasons for supporting a merged use class

The most-frequently given reason for supporting the creation of a merged use class related to increasing flexibility and adaptability, including to help building owners manage their properties in a way that keeps them in use.

It was suggested that the current UCO system is built on the idea that property uses remain largely static but that, with this no longer being the case, a merged class would allow landlords and to respond to the market and adapt properties to ensure their continued viability.

There was a concern that the need for property uses in town centres to evolve, sometimes quickly, is putting immense stress on the UCO system. The hope was that a merged use class would potentially reduce barriers by removing the potential delays and costs associated with obtaining planning permission. It was noted that at present, until planning permission is granted, the proposed occupier cannot risk undertaking fitting out premises or other works, and this can cause a lengthy delay to the opening of the new use. However, there was also a view that, as an application for planning permission forms only part of the investment and decision-making process, the creation of a merged use class of itself may not be particularly significant.

Nevertheless, and from a whole-system perspective, suggested benefits included:

- Reducing overall void and vacancy rates.
- Making it easier for new uses to develop. There was specific reference to addressing issues with new uses which do not fit neatly into the UCO, including new business models that deliberately blend uses to find value.
- Helping with the creation of 20-minute neighbourhoods, hybrid working spaces and opportunities for outdoor learning and socialising.
- Ensuring that centres are more flexible when dealing with climate targets.

There was also specific reference to benefits for the retail sector; it was suggested that the greater focus on the shopping 'experience' is necessitating increased flexibility of use within traditional retail locations. There was reference to ensuring that the expected amenities are provided, including for the increasing number of hybrid trading models. It was also suggested that enabling pop-up uses could bring benefits.

In terms of further benefits that could flow from greater flexibility, it was suggested that removing barriers to higher levels of occupancy will enable wider investment opportunities across Scotland's high streets, and that this could help support a vibrant economy in both the day and evening, to the benefit of residents and visitors.

However, there was also a view that no single policy can, on its own, create sustainable, liveable places and that, while a merged use class could support the regeneration and resilience of centres, it should not be seen as a substitute for effective, locally-centred planning policies like those outlined in the draft NPF4.

Reasons for not supporting a merged use class

Other respondents did not think a merged use class would support regeneration or have an overall and/or positive impact on town centres. Issues raised included that it is not clear how much of a barrier the requirement to change class use is to regeneration and adaptability. One 'planning authority' respondent commented that while there are some vacant units in their area, it is not thought that they are vacant due to the allocated use class or the burden of the requirement for planning permission to alter these.

Another suggested that achieving planning permission for appropriate town centre uses such as Classes 1, 2 and 3 is generally fairly straightforward and unlikely to pose a significant obstacle to new occupiers. They were among those commenting that other issues, such as rent or rates levels, are likely a more significant consideration.

It was also suggested that there are more effective ways of ensuring the continued adaptation and development of commercial centres through the plan-led system. The 'planning authority' respondent making this point referred to the success of their approach of producing detailed guidance which is tailored to the specific characteristics of each commercial area. Their preference was for the regeneration and recovery of commercial centres to be managed and encouraged through supplementary guidance and the local plan process, rather than an amendment to the GPDO to create a new class.

Another 'planning authority' respondent had a similar perspective; they were wary of changes that could impact on their ability to produce guidance that is locally appropriate and that is capable of acting as an effective lever in promoting sustainable regeneration. They went on to comment that addressing challenges through the uniformity of UCO runs the risk of operating counter to the place based agenda that is being reinforced by NPF4.

Other issues or concerns raised, some of which are discussed further at the next question in relation to risks, included that a merged use class could:

- Cause issues with the delivery of NPF4 and LDPs and, specifically, impact on the 20-minute neighbourhood objectives of NPF4.
- Undermine the collaborative approaches being taken to understand and support long-term plans for town or city centres.
- Undermine the ability of local decision-makers to be considerate of and responsive to context and needs. A 'planning authority' respondent reported that their city, town, and neighbourhood centre policy already encourages changes of use within town centres subject to various public contact and residential amenity criteria. They considered that these changes of use are best considered through the planning application process.
- Depending on the use classes to be included, contradict the objectives of town centres being healthy or pleasant places to live.
- Be less suited to the needs of smaller town and neighbourhood centres.

There were also some concerns that, rather than simply being of limited if any positive benefit, a merged use class could be problematic. It was noted that these problems could be created for those town centres that are currently relatively vibrant and not in need of measures to support regeneration.

In terms of the types of problems that could arise, it was suggested that while a merged use class might benefit specific property owners or businesses, this might not be in the wider interests of the whole town centre. It was reported that under the current system there are already many examples of new occupiers moving into premises without requiring any planning permission and their activities having a very different impact on others – for example relating to noise – than had been the case for their predecessors. The 'planning authority' respondent highlighting this issue went on to report that it can result in existing residents complaining to the local authority or other statutory bodies such as the Scottish Environment Protection Agency (SEPA).

Further comments relating to the potential impact on those residing in town centres included that:

- There can often be significant impacts to residential properties located above or overlooking premises with Class 3 use due to noise, odours, and waste storage issues unless they have been properly located and designed.
- While the use of outdoor spaces can help make places more vibrant and welcoming, they also create unwanted and significant noise and anti-social behaviour close to residential areas. There was a query relating to enforcement powers to allow local authorities to address any such issues, along with what means will be available to the community to demonstrate any negative impact.

In addition to residents, there were also concerns about the potential impact on blind and partially sighted people. These related to the impact on people with visual

impairment when business locations change from those they may have already familiarised themselves. It was reported that, prior to the pandemic, the streetscape was already challenging for people with sight loss and that this has adverse consequences for many blind and partially sighted people.

A suggested alternative to the creation of a merged use class was to increase permitted changes within use classes. There was also reference to permitting changes of use from Class 4 to Class 2.

Application in all locations

Both those supporting and not supporting the creation of a merged use class commented on the implications of it applying to all locations and not just town centres. This issue is covered further at the next question but, in summary, it was suggested that consideration should be given to limiting the benefit of such a merged class to town centres rather than in all circumstances.⁶ There was also a call for additional safeguards to be put in place for certain areas, for example areas of historic interest.

Views on classes to be merged

Some of the comments at Question 19 focused on which use classes should be included in any merged use class. Some of these comments addressed the risks associated with certain classes being included; these issues are covered in greater detail at the next question.

In terms of issues to be taken into account, it was noted that care will be needed when deciding which classes might be included, with consideration of:

- The extent to which merging classes might affect the overall character of the townscape and the vibrancy of the high street.
- Any impacts on neighbours and on public amenity.
- How to prevent a monoculture of only single uses classes within an area.
- The availability of both the existing and proposed uses locally and the impact of the potential loss of the existing use on the 20-minute neighbourhood.

There were also references to other planning-related issues to be considered alongside and/or as part of any creation of a merged use class. These included supporting infrastructure for active travel. There was specific reference to flexibility and ease of planning requests to install adequate cycle parking and storage.

In relation to the specific use classes to be included, one 'planning authority' respondent reported that, currently, almost all planning applications in their town and city centres for changes of use between the use classes set out in the consultation paper are approved.

⁶ The consultation paper (para 3.10-3.17) explains that that the UCO is not a spatial tool; its provisions apply across Scotland and any changes would therefore apply in all locations, not just in centres.

Classes 1-3

Some respondents noted their support for bringing together Classes 1-3, with further comments including that the properties in these classes would tend to be easily interchangeable from the perspective of potential tenants. It was also suggested that incoming businesses are less likely to give rise to significant impacts on amenity compared to those that would fall into other use classes.

However, others did see potential problems for town centre residents from the inclusion of Classes 1-3, particularly around the inclusion of class 3 uses (see Question 20 below). Reflecting the concerns, some 'planning authority respondents were amongst those suggesting that only Class 1 and 2 should be included, with Class 3 excluded because of the potential to introduce an additional adverse impact on residential amenity.

Further suggestions were that a merged use class should consist of Class 1 and Class 2 uses only, but could also contain foodbanks, art galleries, museums and libraries, as these uses, which can added to the vitality of our centres, can normally be implemented without the risk of harmful impact arising.

Classes 10 and 11

In terms of Classes 10 and/or 11, there was some support for their inclusion, including because of a view that these uses almost always have either unique physical or space requirements, or simply cannot compete in commercial terms to displace prime retail.

However, there were some reservations around the inclusion of cinemas (from Class 11); this was connected to the prevalence of cinemas on out-of-centre retail parks, and the potential for an uncontrolled move to Class 1 (Shops), for example, to undermine centres and mark a departure from the long-established town-centre first principle in Scottish Planning Policy.

A specific issue raised in relation to Class 10 was around flood risk. It was noted that Class 10 includes Most Vulnerable development types such as nurseries and schools⁷. Given the potential community impact caused loss or damage of such facilities during a flood event, and the vulnerability of the occupants to flooding, it was suggested that the Class 10 aspect of the proposed merged use class should be removed.

Sui generis uses

Views relating to sui generis uses included that they should be kept as such, but with the principle that they are acceptable in identified town centres, subject to appropriate controls on amenity. There was specific reference to uses that are more likely to have significant impacts on those around them (also known as 'bad neighbour' development, as per GDPO Schedule 2) remaining subject to planning

⁷ It was noted that, in the context of flood risk, vulnerability classification is a reflection of how susceptible and resilient to flooding a development type is, and any wider community impacts caused by its damage or loss, including the risk to the groups of people who use or live in it.

control. Another suggestion was that controls relating to proximity to residential properties would need to be introduced.

There were also comments relating specifically to pubs or licensed premises. They included both support for and opposition to including licensed premises in a new merged use class. Reasons given for supporting their inclusion were that to do otherwise could both prevent vacant pubs being transformed and deter potential investment in Scotland's high-streets if there are vacant shops or restaurants that have the potential to become a viable pub business.

An alternative view was that pubs should not be included in a merged use class, including because this could lead to further closures of pubs without local communities being able to have a say over their future. There was reference to the vital role played by pubs in town centres and urban settings, including as a centre for social interaction, promoting community cohesion and the wellbeing of residents. Given the continued rate of pub closures and loss of amenity to the communities those pubs serve, there was a call for the Scottish Government to ensure that pubs can only be converted to another use, or demolished, by obtaining planning permission.

Question 20 – What do you consider to be the key risks associated with such a merged use class, and do you think that non-planning controls are sufficient to address them?

Around 50 respondents made a comment at Question 20.

General comments included that, while consideration of risks is important and helpful, the overall benefits from the proposed changes are likely to be greater than any disbenefits. As at the previous question, there was reference to the potential to stimulate occupier activity, remove barriers to short-term/temporary uses of units and reduce vacancy levels.

Negative impacts on amenity, residents or other businesses

The most-frequently identified potential risk centred on changes of use and, particularly, the risk that changes from commercial use such as retail to cafes or takeaways have a negative impact on local amenity. A number of respondents noted possible issues, particularly in relation to a change from another class to Class 3.

There were concerns about the impact, particularly on residents, of planning authorities having less control over issues such as operating hours, noise levels, smell and parking. There was also reference to issues around refuse storage and collection and outdoor seating areas. One 'planning authority' respondent noted that removing controls would present a particular set of challenges in an area such as theirs, where most town centres are tenemental high streets with residents 'living above the shop'.

It was reported that, under the current approach, the planning stage is often the first opportunity to identify possible issues and potentially avoid any problems arising. It was noted that, at present, potential problems can potentially be mitigated by conditions or design improvements through the planning process, and that current controls allow planning to ensure that amenity is protected when assessing uses that may bring noise or disturbance into units in close proximity to residential properties. A 'planning authority' respondent reported that Environmental Health are regularly consulted on Class 3 proposals and that, in many cases, initial proposals for filtration and ventilation of kitchen odours are inadequate or, in some cases, almost non-existent.

In terms of avoiding negative impacts, there was reference, for example, to the role of noise impact assessments in considering noise created during hours of operation, noise and vibration from plant including commercial extraction systems, and noise from the collection of waste and deliveries. Further points raised included that, under the current arrangements, planning can consider whether the creation of commercial premises, such as gyms, that are structurally attached to noise sensitive properties could generate significant levels of amplified music and vocals.

There were concerns about the impact on residents in particular if these powers are lost to planning authorities. It was also noted that a prevention-focused approach reduces the risks of:

- Residents or other businesses having to wait for what may be some time before issues are addressed.
- Planning authorities incurring significant enforcement-related legal costs.
- Businesses that are found to be causing problems incurring costs associated with remedial action or a move of premises. It was suggested that the impact on businesses that become the subject of enforcement action for Statutory Nuisance (discussed further below), is likely to be particularly significant.
- Potential knock-on effects for the property owner (if they are different to the operator of the business).

Loss of amenity and change in character

A number of respondents identified loss of diversity, and the potential clustering of types of uses, as a potential risk associated with a merged use class; part of the concern was that removing planning control over change of use could mean that town centres increasingly come to be dominated by whatever activities deliver the highest rental value to property owners. The associated concern was that a clustering of profitable uses that will not necessarily make centres 'better' places.

There were particular concerns about the loss of retail provision within certain locations, including to the detriment of residents. Linked to NPF4 and the creation of 20-minute neighbourhoods, a 'planning authority' respondent reported that they are currently in the process of developing their 20-minute neighbourhood strategy, which aims to ensure that all residents can access necessary services within a 20-minute round trip on foot or by public transport. They were concerned that a merged use class could undermine the ability to deliver their strategic aim.

It was also reported that some planning authorities still identify core retail areas, where there is a presumption against a loss of Class 1 uses, in order to ensure the centre continues to have a strong retail offer. In addition to seeking to retain certain uses, it was noted that some planning authorities operate policies to prevent the clustering of certain uses,⁸ and that this too might not be possible with a town centre use class.

Other comments focused on the potential for 'unplanned' changes to the character of centres. In terms of the nature of possible changes, there was reference to:

- Local community spaces, such as cafes and sports facilities, being converted into space for financial services or office space; it was suggested that such changes could alter the character of centres, particularly if replicated over several developments.
- Specific risks to the unique character of some conservation areas and World Heritage Sites. For example, for a town or city centre where a historic high street is characterised by its shop uses and associated vibrancy, there was a concern that the creation of a merged use class could result in a harmful change, including through the loss of public facing businesses.
- The impact that changes to business use can have on overall footfall in centres, and the potential for a drop in footfall to hamper regeneration and recovery.

Connected to concerns about the types of businesses that could move into centres was a concern that businesses could also be diverted away from potential development of land that is allocated for Class 4, 5 and 6 uses.

Application in all locations

There were also references to possible risks connected to a merged use class applying in all areas and not just in designated town and city centres. It was suggested that those uses grouped together as being interchangeably desirable in town centres may not all be equally desirable in other locations.

There was particular reference to Class 10 and 11 uses, where these are located outwith the centre, being changed to Class 1 and to this having a knock-on and negative impact on town centres. For example, it was suggested that the conversion of a large gym to a shop in an out-of-town location could adversely impact on a town centre. Specifically, there was a concern about the loss of highly valued local retail which, in many instances, will be protected by LDP policies against which change of use applications would currently be assessed, especially in smaller neighbourhood centres and villages.

The link was also made to the location of some of the uses in Class 10, such as schools and nurseries, and the catchment area for active travel. It was suggested

⁸ It was also noted that some uses that planning authorities might otherwise seek to control, such as hot food takeaways and pay day lending, are sui generis.

that a school or nursery may be well located within its catchment, but not well located for changing to a Class 1, 2, 3 or 11 use.

Effect on plan-led approach and effective place-making

A number of respondents, including some 'planning authority' respondents, commented on how a merged use class could affect locally-driven, plan-led place-making. Comments include that the changes would decrease the control local authorities have to shape the offer of their place; it was suggested that, in areas where there is an up-to-date plan or a strong understanding of issues such as demographics, local need and strategic clustering of uses, the relaxation of the UCO system could be unhelpful.

Other concerns included that the creation of a merged use class is contrary to the 'agent of change' principle enshrined in planning legislation, and is at odds with the broad principles within PAN 1/2011: Planning and Noise. It was also suggested that the creation of a merged use class would:

- Remove opportunities for communities to engage in the planning decision-making process. It was suggested that the absence of planning consultations would take away a route through which communities can influence decisions about what is best for their regions now and into the future.
- Reduce local accountability for decisions made through planning application processes.
- Undermine planning authorities' ability to deliver on amenity principles, including in relation to the 20-minute neighbourhood and town centre living objectives set out in NPF4.
- Potentially create a conflict with wider government policy on ensuring the right to food for all citizens. It was suggested that the loss of local retail provision may make it more difficult to provide good food to those individuals with limited means of access to larger out of centre retail units, or those who cannot order their shopping online.

Impact on land values

A 'professional or representative body' respondent raised a specific issue about a merged use class having the potential to increase land values, noting that this can have implications for the viability of certain types of housing development and citing experience in Ireland as an example. They called for a mechanism whereby a proportion of any uplift could be regained through, for example, the tax system.

Sufficiency of non-planning controls

One perspective was that non-planning controls - such as licensing, Building Standards and Environmental Health - will ensure adequate protections remain to mitigate all or some of the perceived impacts from a merged use class. Further comments included that:

- Planning permission would still be required for physical works which may be required to turn a retail unit into a functional restaurant, meaning that planning controls will remain in place to ensure adverse impacts are duly considered at

the appropriate juncture. However, there was also a query as to whether associated infrastructure such as flues, extracts and ventilation would still require planning permission?

- Some of the risk may be mitigated by the listed building consent process and conservation area appraisals in conservations zones and heritage areas. However, there was also a query as to whether new PDR rights would apply to sites located in conservation areas?
- For licensed premises, there are sufficient controls in place, primarily through the licensing regime, which would address any risks, including sound management and hours for use of the premises and any associated outdoor areas.

However, there was also a view that, while non-planning controls might be sufficient, local authorities do not have the resources to enforce these controls. The 'professional or representative body' respondent making this point went on to comment that many 'breaches' would go unchallenged and, even if challenged, would lead to costs to the public purse that would not be reimbursed.

Others raised concerns about whether the non-planning controls are indeed sufficient and/or appropriate to address the possible risks. The focus was often on the role of Environmental Health and the amenity-related risks discussed above, and that Environmental Health powers can only mitigate impacts and cannot address any concerns regarding the location.

There was also a concern about whether current Environmental Health legislation and licensing regimes could be relied upon to protect surrounding amenity. It was suggested that the only non-planning controls that would be relevant to noise or odour would be the Statutory Nuisance provisions of the EPA.

Although the standard for Statutory Nuisance was described as very high, it was also noted that:

- It is less onerous than for loss of amenity; it was suggested that even when the matter has been resolved to the satisfaction of Environmental Health, some complainants may be left unsatisfied and having to continue suffering a loss of amenity due to noise and odour.
- The controls available to Environmental Health are based on the assumption that a business is entitled to exist at a location, whereas the planning process will look at whether that business is actually appropriate for that location.
- Under the EPA there is a statutory defence of Best Practicable Means (BPM) whereby if a business can demonstrate they have employed BPM to mitigate against noise, odour etc., they would have a defence in any proceedings even if the matter continued to constitute a Statutory Nuisance.
- The costs of retro-fitting noise mitigation controls in an emerging Nuisance situation are likely to be far higher than designing them into the development at an application stage.

It was also reported that Statutory Nuisance-related enforcement can be lengthy and costly and does not guarantee an absolute result. There was a view that removing planning controls on Class 3 would lead to an increase in complaints and that, reflecting a point made above, this would have an impact on resources for Environmental Health services.

A 'planning authority' respondent reported that their Environmental Health colleagues consider that there are no non-planning controls sufficient to address the number and range of environmental impact complaints which will arise from these proposed changes to the present change of use planning application requirements for town centres. There was a view that potential nuisances are best avoided rather than dealt with retrospectively.

Other issues to be considered

One 'planning authority' respondent raised the particular issue of the key role of the planning system with regard to contaminated land, and that whether confirmed or suspected, contamination is a material planning consideration. They went on to note that, where there is a change of use to more sensitive uses, it is essential that the potential for contamination is considered in its broadest sense. They considered that the contaminated land regime, and the requirement of PAN 33: Development of contaminated land, need to be suitably integrated into PDR provisions in order to ensure issues are considered during development considerations.

Respondents also highlighted issues for consideration if a merged use class were to be introduced. In terms of possible solutions or mitigating measures to address some of the concerns raised above, suggestions included defining the locations where the merged use class would apply, for example only in town and city centres defined in the LDP. A similar suggestion was that permission for change of use between specified classes could be granted within defined areas via MCAs.

Other suggestions included that:

- At a minimum, it should be made clear that PDR only relate to the use of the premises, and that other associated matters such as alterations to shop frontages and the installation of plant/ventilation machinery still require full planning permission.
- In terms of conservation areas and urban World Heritage Sites and non-designated buildings, the Scottish Government could develop best practice guidance relating to external changes.
- The use of restrictions in conservation areas and World Heritage Sites, and/or the use of prior notification/prior approval, could be considered.
- The role of Town Centre Management Plans should be considered. It was suggested that by bringing property owners, local authorities, businesses and communities round the table, a consensus on change can be developed, reducing the risk of conversions that are unsatisfactory to others who rely on the town centre.

- Some form of permit system could be considered, perhaps through other regulatory regimes, with a requirement for the installation of approved noise mitigation measures or fume extraction equipment. However, this would add another layer of regulation and would have resource implications for local authorities.
- If changing from the other uses without specific planning permission, Class 3 uses could be restricted to opening no later than 8 pm. Some uses in Class 10 and 11, such as disco and gym uses, may also require restrictions on opening hours and size.

As at Question 19, there were also comments about the types of use that should or should not be included in any merged use class. Points raised included that:

- If a merged use class is taken forward, it should initially extend only to Classes 1, 2 and 3.
- Arts, community and cultural uses, along with others that are currently sui generis, should not be included. It was argued their financial value could make them vulnerable to loss if planning controls were relaxed, and that this would be counterproductive to the wider aspiration of supporting town centres. Existing theatres, music venues, nightclubs and other noise-generating uses could be impacted by incoming sensitive uses, such as residential. Equally, they could result in unacceptable impacts on the amenity of existing occupants should they be permitted to locate to new premises without control or assessment.
- Alternatively, that a merged use class of Class 1 and 2 could include foodbanks, art galleries, museums and libraries as these uses can add vitality to town centres.

Question 21 – Are there any other changes to the UCO which you think would help to support Scotland’s centres?

Responses to Question 21 by respondent type are set out in Table 18 below.

Table 18

Respondent type	Yes	No	Total
Organisations	14	12	26
% of organisations	54%	46%	100%
Planning authority	7	10	17
Professional or representative body	3	1	4
Public body or corporation	0	0	0
Private sector	2	0	2
<i>Energy and transport</i>	0	0	0
<i>Hospitality</i>	2	0	2
<i>Other</i>	0	0	0
Third sector	2	1	3
<i>Active travel</i>	0	0	0
<i>Community Council</i>	0	0	0
<i>Other</i>	2	1	3
Individuals	3	4	7
% of individuals	43%	57%	100%
All respondents	17	16	33
% of all respondents	52%	48%	100%

A small majority of respondents – 52% of those answering the question – thought that there are other changes to the UCO that would help to support Scotland’s centres. ‘Planning authority’ and ‘individual’ respondents were the only groups in which a majority did not think so.

Around 20 respondents made a comment at Question 21.

Points made by the small number of these respondents who did not think other changes would help, and who commented further, included that no changes are required to the current approach, including to PDR, or that the proposed changes to PDR appear to be extensive enough.

General suggestions made by those who did think other changes would help included that a full review of existing UCO is needed. Connected comments included that many modern-day uses do not fit neatly within the use categories and that a planning system that reflects current operations would be more relevant and effective. It was also suggested that further understanding of the views of businesses or would-be investors would help judge whether or not planning control is a barrier.

In terms of changes, rather than the proposed merged use class, there was a call for a ‘town centres use class’. It was thought that such a class could sit well alongside work on how to most effectively regulate short term lets. It would also provide an opportunity to look at balancing flexibility for town centre occupants with proactive efforts to improve the sustainability of centres.

Comments and suggestions relating to particular uses or use classes included:

- Merging suitable groups of use class, such as Class 1 and 2, to further streamline the system.

- Potentially a permitted change from Class 4 to Class 2, up to a specified footprint of premises. It was suggested that this could increase the number of public-facing facilities within town centres.
- Allowing for additional flexibility in the ability of Class 1 to go to Class 2 under PDR. Also some sui generis uses, such as tattoo parlours or betting shops, could be covered by the PDR.
- PDR for change of use of upper floor offices or retail storage areas to residential flats. It was suggested that this should only apply to one- or two-bedroom flats and should only be permitted where they are entirely above Class 2 offices, retail uses or an existing residential use.
- Removing certain uses, for example museums, public halls, concert halls, cinemas, bingo halls and discotheques/nightclubs, from Classes 10 and 11. It was suggested that this would help give greater protection to such facilities which are important in contributing to the diversity of centres and meeting the social and cultural needs of local people.
- Considering additional protections for uses such as doctors, dentists and post offices. It was noted that these are critical services for residents and that UCO relaxations could cause problems with the development of 20-minute neighbourhoods.

Provision for a formalised temporary change to allow for short-term uses, such as pop-up shops, art exhibits or foodbanks within units that are unoccupied or awaiting planning permission, was also proposed.

Other suggestions related to possible additional requirements or controls that could be put in place in the event of a change of use. These included:

- Temporary changes of use, for example for a three-month period, could be a way to test alternative uses while minimising impacts on neighbours and public amenity.
- Use of prior notification, rather than unrestricted permitted development, for some change of uses. It was suggested that this could add a suitable level of control whilst making the process of application more certain and faster.

There were also general suggestions relating to town centre regeneration including:

- Focusing on proactive and collaborative policy making and implementation. It was reported that there are many examples where local authorities, communities and businesses have worked together to improve the viability of town centres.
- The use of design coding. It was reported that this practice is becoming more widely used in the planning process in England and can play a key part in shaping vibrant highstreets and in ensuring consistent, high-quality design that puts people and place at the heart of planning.

Masterplan Consent Areas

The consultation paper notes that MCAs can grant planning permission (and other consents) for specified forms of development and have the potential to offer similar flexibilities to the UCO or PDR. However, these would only apply to the particular area or site covered by the MCA scheme and so can be tailored to the specific needs and pressures it faces.

Question 22 – Do you agree that MCAs could be a useful tool to provide more extensive planning freedoms and flexibilities in Scotland’s centres?

Responses to Question 22 by respondent type are set out in Table 19 below.

Table 19

Respondent type	Yes	No	Total
Organisations	24	5	29
% of organisations	83%	17%	100%
Planning authority	15	2	17
Professional or representative body	3	1	4
Public body or corporation	1	0	1
Private sector	2	1	3
<i>Energy and transport</i>	0	0	0
<i>Hospitality</i>	0	0	0
<i>Other</i>	2	1	3
Third sector	3	1	4
<i>Active travel</i>	0	0	0
<i>Community Council</i>	0	0	0
<i>Other</i>	3	1	4
Individuals	7	2	9
% of individuals	78%	22%	100%
All respondents	31	7	38
% of all respondents	82%	18%	100%

A substantial majority of respondents – 82% of those answering the question – agreed that MCAs could be a useful tool to provide more extensive planning freedoms and flexibilities in Scotland’s centres. There were no groups in which the majority of respondents did not agree.

Around 40 respondents made a comment at Question 22.

Reasons why MCAs could be a useful tool

A small number of respondents who agreed that MCAs could be a useful tool had not agreed with the creation of a merged use class. Further comments from these respondents included that MCAs seem to be a much more appropriate tool to revitalise town centres, including because it allows for a more focused approach to increasing flexibility whilst avoiding unwanted consequences. However, it was also noted that it will be important for any approach to remain relevant and not result in harmful legacies or precedent setting. Other comments were that:

- Care would have to be taken to ensure the approach is transparent, accountable and that consultation is inclusive.
- While MCAs are a possible option, there are also alternatives, with one 'planning authority' respondent reporting that their existing plan-led system to improve existing commercial centres is proving successful.

Those who had agreed with the introduction of a merged use class and also that MCAs could be useful tools often raised similar issues; they were most likely to comment that MCAs would bring flexibility, including because the approach could be targeted at areas where it would be effective, with MCAs offering the opportunity for a nuanced, place-specific approach to determining what is appropriate development in an area. A specific point was that MCAs could be a better mechanism to help ensure any new uses are not increasing flood risk.

It was also suggested that the MCA would provide an important framework in which changes to UCO would sit, and could avoid the blunt effect of implementing change nationally and having unintended consequences on areas where such changes are not required. However, it was also noted that with less control potentially comes less regulation and that setting standards would be fundamental to any MCA.

Reservations or concerns about the usefulness of MCAs

Respondents also raised reservations, including that MCAs are new and still untested and that it is difficult to judge whether they would be of use in this context.

Those who did not agree that MCAs could be a useful tool included some who had agreed with the introduction of a merged use class (at Question 19). Their further comments included that the current proposal seems at odds with the intention behind MCAs;⁹ it was reported that the intention is that planning issues have been worked through in advance, applying all relevant protections, not that planning protections are removed. In the context of the removal of protections it was noted that MCAs can include assets that have local and national protection, including listed buildings, conservation areas, and green belt areas.

Other concerns also focused on the loss of useful controls and the potential to undermine the quality and vitality of centres, amenity of places, and the delivery of the 20-minute neighbourhood concept and focus on town centre living included in the draft NPF4.

There was also a concern that the application of MCAs could differ across Scotland, with unpredictable timescales to prepare, consult upon and implement MCAs in different planning authority areas introducing more uncertainty into the process than the proposed change to the UCO.

Resource implications

Finally, some of those supporting or not supporting the use of MCAs pointed to their resource implications for Planning Authorities. Further comments included that they

⁹ As set out in the Scottish Government's Policy Memorandum for the Planning Act 2019.

could result in a loss of income to the planning authority at the same time leading to increased resourcing requirements to enact and monitor individual schemes. It was suggested that resourcing challenges would need to be addressed before MCAs can become an effective tool. There was also a call for Scottish Government guidance on the adoption of MCAs, with capacity and resourcing considered as part of that guidance.

PDR for provision of workspace

The consultation paper explains that the Scottish Government is considering the case for providing greater flexibility to change the use of existing buildings to offices/workspaces. Although not minded to include Class 4 in a merged use class, an alternative approach could be to support provision of workspaces through a new PDR granting planning permission for a change of use to Class 4 (but not the other way round).

Question 23 – Do you think that a PDR providing for a change of use to Class 4 (business) would help to support the regeneration, resilience and recovery of centres – as well as the establishment of 20-minute neighbourhoods?

Responses to Question 23 by respondent type are set out in Table 20 below.

Table 20

Respondent type	Yes	No	Total
Organisations	18	7	25
% of organisations	72%	28%	100%
Planning authority	8	6	14
Professional or representative body	4	1	5
Public body or corporation	0	0	0
Private sector	3	0	3
<i>Energy and transport</i>	0	0	0
<i>Hospitality</i>	0	0	0
<i>Other</i>	3	0	3
Third sector	3	0	3
<i>Active travel</i>	1	0	1
<i>Community Council</i>	0	0	0
<i>Other</i>	2	0	2
Individuals	9	0	9
% of individuals	100%	0%	100%
All respondents	27	7	34
% of all respondents	79%	21%	100%

A majority of respondents – 79% of those answering the question – thought that a PDR providing for a change of use to Class 4 (business) would help to support the regeneration, resilience and recovery of centres – as well as the establishment of 20-minute neighbourhoods. However, ‘planning authority’ respondents were divided on this issue, with only a small majority thinking it would help.

Around 40 respondents commented at Question 23.

Reasons for supporting a PDR providing for a change of use to Class 4

As in relation to other changes to PDR, some respondents commented that providing for a change of use to Class 4 would offer flexibility, including to reflect changing work patterns and the greater demand for more flexible office space. It was noted that Covid-19 has led to changing needs and that the built environment will need to adapt in order to support post-pandemic recovery and improve the social, economic and environmental health of Scotland's centres. Specifically, it was suggested that it could support the quicker delivery and occupation of a range of new workspace formats in units which may no longer be attractive from a retail point of view, as well as having the potential to use upper floors of larger shop units which become surplus to requirements.

In terms of other benefits that this PDR could bring to town or city centres, there was reference to:

- Generating additional footfall within town centres.
- Supporting the development of 20-minute neighbourhoods and being in line with the mixed use policy set out in documents such as 'Designing Streets' and 'Manual for Streets'.

It was also noted that smaller scale offices closer to workers' places of residence would also serve to encourage a move to sustainable travel modes such as walking and cycling, and such uses often do not raise the same kind of amenity or vehicle movement concerns as larger offices.

Some of those who were supportive of the PDR being introduced did identify possible risks associated with the approach. These often reflected the concerns of those who did not support the PDR and included that the vitality of town centres could be undermined in some locations if there were large scale changes from Classes 1, 2 and 3 to Class 4. In particular, it was noted that the loss of shops and cafes may be of concern in some traditional high streets.

It was also noted that there is an issue of proportionality and that, if many shops were changed into offices the impact, whether positive or otherwise, would be greater. The associated point was that a blanket policy offers this potential but does not afford statutory authorities or the community any influence.

Reasons for not supporting a PDR providing for a change of use to Class 4

While those supporting a PDR for change of use to Class 4 tended to think that, on balance, it would benefit town centres, others thought it would not. Concerns included that this PDR would result in loss of the range and diversity of facilities within a centre, with key facilities such as convenience stores, cafes or banks being replaced with office use. There were also concerns, as raised at previous questions, that if Class 4 offices were given freedom to move into town centres, the spaces freed up in out-of-centre office parks could then be occupied by other businesses, including retail businesses, moving out of town and city centres.

It was noted that the loss of the types of uses that attract visitors to town centres would have a harmful impact on vitality and vibrancy; this concern was raised in

particular in relation to smaller neighbourhood centres and smaller town centres and villages. It was also suggested that, since 20-minute neighbourhoods are fundamentally to provide locally accessible services, the PDR could undermine their viability.

Connected to the loss of Class 1, 2 and 3 uses was the loss of active shopfronts; it was noted that the defining feature of a Class 4 office, and what distinguishes it from a Class 2 office use, is the lack of a commercial frontage. One 'planning authority' respondent explained that, to maintain high footfall uses that are open to passing trade and visiting members of the public, the prime retail frontages in their towns are limited to use Classes 1, 2 and 3. They reported that this approach has been implemented successfully for many years, has not led to vacancy of properties, and has contributed to a healthy mix of these uses.

Another 'planning authority' respondent reported that their policies look to maintain 'active frontages' on established shopping streets; they described active frontages as easy to achieve with Classes 1, 2 and 3, but perhaps less so with Class 4.

Overall, the concern was that there is a fine balance of uses in a healthy and vibrant town centre, and that the loss of any of Class 1, 2 or 3 uses to Class 4 (or other uses) could quickly have a negative impact. It was felt that the negatives stemming from the loss of active frontages would outweigh any benefits resulting from increased employment in the centre.

The potential impact on sites allocated for employment within the LDP was also highlighted. The concern was that developers are already seeking non-employment uses for some of these sites based on lack of demand, and that they would be likely to argue there is even less demand if there was PDR for offices on sites not allocated for this purpose.

In addition to concerns about the vibrancy of town centres were those about the impact of possible noise and emissions issues if Class 4 businesses were to be located in town centres. It was suggested that any problems would require reactive control from Environmental Health, raising similar concerns to those raised in regard to a merged use class.

Issues to be considered

Both those supporting or not supporting the PDR suggested issues to be considered, or measures that might be required, should the PDR be taken forward. General comments included that a plan-led approach to new developments should be retained, and that there should also be some limitations or controls for existing buildings.

Specific comments or suggestions included:

- Supporting infrastructure for active travel would need to be considered and could be encouraged by the creation of Town Centre Management Plans.
- Some Class 4 uses can generate large numbers of vehicle movements and require significant parking space provision. Safeguards should be considered

to protect against situations where large numbers of vehicle movements are directed through town centres, possibly at the expense of pedestrian safety and movement permeability.

- As Class 4 relates to business use which can be carried on without detriment to the amenity of an area, it would be important to define clearly what is meant by 'without detriment'.
- A degree of screening, of the kind currently performed by the planning assessment, would be required with some of the Class 4 categories of use. Clarification is required around the controls available in situations where a Class 4 business does create problems with emissions.
- Care must be taken in the structure and process of any changes taken forward to avoid harm to the characteristic uses and qualities of conservation areas and World Heritage Sites.

Other comments concerned the relationship between Class 4 and other uses, and included that:

- The PDR should apply to change to, but not from, Class 4.
- In contrast, that it could include a change of use from Class 4 to Class 2, up to a specified floorspace. It was suggested this could introduce more visitors to a town centre area, which could assist other businesses.
- The ability to change from a Class 4 use to a Class 6 use (for areas of no greater than 235 square metres) would need to be removed to close a potential loophole for development that could otherwise be incompatible with town centres.

Question 24 – If a PDR of this nature were taken forward, what existing uses should it apply to?

Around 35 respondents commented at Question 24, although a small number only to restate that they did not support the changes proposed. However, many of those who commented agreed with the consultation paper's reference to a PDR to change from uses in Class 1, 2 and 3 to a Class 4 use. Their further comments or suggestions included that:

- The loss of shops under this PDR may be problematic in some areas, including through a loss of activity at street level. There was a suggestion that only Class 1 and 2 uses would most likely be most appropriate for change of use.
- A PDR would need to ensure that 'bad neighbour' uses were not included. Business uses should be compatible with existing neighbour and public amenity.
- It should also be geographically defined so that it benefits only town centres designated in LDPs, as opposed to any existing Class 1, 2 or 3 premises.

A small number of alternative suggestions to Classes 1-3 were made. These included that:

- There should be no specific restrictions, as one footfall generating use would just be replaced with another.
- Any PDR should apply to the proposed 'general town centre use' class.
- Any PDR should not include Class 1.
- Any PDR should not include Class 5.
- Any PDR should not apply to pubs, or to arts, community and cultural uses.

Question 25 – Would 300 square metres be an appropriate maximum floorspace limit?

Responses to Question 25 by respondent type are set out in Table 21 below.

Table 21

Respondent type	Yes	No	Total
Organisations	14	4	18
% of organisations	78%	22%	100%
Planning authority	10	2	12
Professional or representative body	2	0	2
Public body or corporation	0	0	0
Private sector	2	0	2
<i>Energy and transport</i>	0	0	0
<i>Hospitality</i>	0	0	0
<i>Other</i>	2	0	2
Third sector	0	2	2
<i>Active travel</i>	0	0	0
<i>Community Council</i>	0	0	0
<i>Other</i>	0	2	2
Individuals	7	1	8
% of individuals	88%	12%	100%
All respondents	21	5	26
% of all respondents	81%	19%	100%

A substantial majority of respondents – 81% of those answering the question – thought that a 300 square metres would be an appropriate maximum floorspace limit. All but two 'planning authority', two 'third sector - other' and one 'individual' respondent agreed with the proposed limit.

Around 25 respondents made a comment at Question 25, although some only to note that they did not agree with the proposed PDR.

Respondents who supported a 300 square metres maximum sometimes noted that a limit would be required, including because larger scale developments could result in disruption to the character of an area. Other comments included that a limit would:

- Prevent larger shops or other facilities being lost.
- Protect dedicated office areas where large floor spaces are provided, and address some planning authority concerns about changes to PDR undermining established office locations.

Although the 300 square metre limit was described as reasonable or useful, there was a query as to why this has been chosen. It was noted that, for comparison, the average three-bedroom house is around 120 square metres, if the conversion of residential properties is being considered. It was also noted that there is already a maximum floor area of 235 square metres for change from Class 5 to Class 4. It was suggested that a consistent approach would be helpful, and that a key consideration should be what the market would support; the associated query was whether the creation of 300 square metres of business premises would be a worthwhile investment and would create premises that would be attractive to users?

It was also suggested that the limit may be too large, or too large in many town or village centres, or that it will need to be (re)considered where smaller units are the norm if wholesale change is to be avoided. There was a view that it is very difficult to be prescriptive due to the variety of settlement types, and that a 300 square metre limit could have a significant impact on small towns or villages, with the existing few units becoming non-retail.

In terms of alternatives, or the potential for a degree of flexibility, suggestions included that, if the intention is to avoid significant office floorspace emerging in smaller centres, a Cumulative Impact Assessment may be required. Alternative limits or specific restrictions suggested included that:

- 250 square metres may be more appropriate to start with to ensure larger shops are not lost from high streets.
- There should be controls to ensure that larger units, such as retail parks, cannot be sub-divided into multiple units each with their own 300 square metre provision.
- Rather than applying a blanket maximum floorspace limit, a prior approval process should apply for proposals above a certain floorspace threshold.

Question 26 – What (if any) additional conditions or limitations should such a PDR be subject to?

Around 30 respondents made a comment at Question 26, with a number returning to issues they had raised previously. These included that there are no conditions or limitations that would make the PDR changes proposed acceptable within centres, or that any PDR should apply only to designated town centres as set out in LDPs. There was again a call for Scottish Government best practice guidance relating to any changes to PDR.

Other comments focused on the recurring issue of the impact on neighbours and public amenity, with suggestions including that:

- In the event of a change to Class 3 use, appropriate ventilation to minimise odour to neighbouring residential properties should be installed.
- A minimum storage area for refuse bins must be available and must not restrict pedestrian movement or car parking.
- The implications for parking should be considered, both in and out of centres. In relation to centres, the implications of additional employees parking for long periods, as opposed to passing traffic utilising retail and commercial premises in the area, was highlighted.

The most-frequently made point, reflecting concerns raised by some respondents at Question 23, was that consideration should be given to preventing the loss of shop frontages in order to protect the appearance of the street. Suggestions included that:

- There might need to be consideration of an exemption for consumer facing businesses on the ground floor to maintain the character of a town centre. On a similar theme, any PDR should only be introduced for upper floors of buildings.
- Any physical changes in a shop or unit frontage should still require planning permission in order to retain some control over the appearance of streets.
- Premises changing to Class 4 (business) should be required to maintain an active frontage.

As at previous questions, other comments also addressed which uses and/or use classes should be covered by any changes to PDR. Suggestions included that:

- Careful consideration should be given to whether the PDR should apply to conservation areas and World Heritage Sites. The use of restrictions and/or the use of prior notification/prior approval was also suggested and the importance of aligning any policy changes to the Historic Environment Policy for Scotland was highlighted.
- Changes of use from Class 1 to Class 4 should not be included. In relation to Class 1, it was suggested that protecting shops in the main town centre thoroughfares is critical but would be impossible if shops were merged with other use classes.

Sometimes connected to issues of amenity, there were also comments relating to prior notification or certification. These included that there should be:

- Prior notification for certain uses with associated amenity issues.
- Prior approval process for proposals above a certain floorspace threshold
- A version of the current Section 50 certificate that is used for licencing etc. It was suggested that this would ensure that local authorities are aware of changes to the premises, including in relation to rates to be levied.
- Proof of a need and use for the PDR in question.

PDR for moveable outdoor furniture

The consultation paper notes that the requirement for greater physical distancing during the pandemic saw many cafés, restaurants and other businesses make use of outside areas, in some instances placing moveable furniture on pavements. The Scottish Government issued guidance which encouraged planning authorities to relax planning control and take a pragmatic approach to enforcement action, but this guidance is expected to be withdrawn at the end of September 2022.

It is proposed a new PDR should be introduced to permit the placing of moveable furniture on a public road adjacent to food and drink premises (Class 3). Placing furniture on a road (the definition of which includes the pavement) would continue to require consent under the Roads (Scotland) Act 1984, even if planning permission were granted through a PDR.

Question 27 – Do you agree with the proposed introduction of a PDR for moveable furniture placed on the road outside of (Class 3) food and drink premises?

Responses to Question 27 by respondent type are set out in Table 22 below.

Table 22

Respondent type	Yes	No	Total
Organisations	27	11	38
% of organisations	71%	29%	100%
Planning authority	9	6	15
Professional or representative body	2	1	3
Public body or corporation	0	1	1
Private sector	10	0	10
<i>Energy and transport</i>	0	0	0
<i>Hospitality</i>	3	0	3
<i>Other</i>	7	0	7
Third sector	6	3	9
<i>Active travel</i>	3	0	3
<i>Community Council</i>	0	1	1
<i>Other</i>	3	2	5
Individuals	7	7	14
% of individuals	50%	50%	100%
All respondents	34	18	52
% of all respondents	65%	35%	100%

A majority – 65% of those who answered the question – agreed with the proposed introduction of a PDR for moveable furniture placed on the road outside of (Class 3) food and drink premises. Organisations were more likely to agree than ‘individual’ respondents, at 71% and 50% respectively. While all ‘private sector’ respondents who answered the question agreed with introduction of the proposed PDR, ‘planning authority’ and ‘third sector’ respondents were more divided.

Around 55 respondents made an additional comment at Question 27.

Reasons PDR for moveable furniture should be introduced

Reasons given in favour of a PDR for mobile furniture included that it would:

- Increase the vibrancy of the local area. Improvements to health and wellbeing brought about by measures such as road closures and outdoor dining were also noted and it was suggested the pandemic has brought about a cultural shift with respect to outdoor hospitality in many towns and cities, with many people now preferring to sit outside.
- Provide support and flexibility to aid the post-pandemic recovery of businesses in the hospitality sector allowing operators to welcome more guests at peak times.
- Be a sensible approach that avoids duplication in the consenting processes for planning, roads and licensing regimes.
- Remove one of several regulatory processes and so reduce the administrative burden on operators. Removal of fees for use of outside seating was also requested.

Some respondents agreed in principle with a PDR for moveable furniture but suggested that controls would be required, for example that access and safety for people walking, wheeling and cycling must not be compromised. Suggested conditions or limitations on a PDR for mobile furniture are covered at Question 28.

Other respondents argued that the provision should be extended beyond that being considered at present and should apply to bars and public houses. Potential uses that a PDR should apply to other than Class 3 food and drink premises are covered at Question 29.

Reasons a PDR for moveable furniture should not be introduced

Some respondents argued against a PDR for mobile furniture, taking a view that this should remain under planning control. It was suggested that the proposed PDR could be a significant change in some areas and that the proposed change should be the subject of further consultation. One 'planning authority' respondent reported that experience of taking a relaxed approach to control and enforcement of the use of roads and footways during the pandemic has confirmed their view that planning control is required in this area. They also noted the number of elements of design and layout that are negotiated as part of a planning application, arguing that it would not be practical to address such measures within the terms of a PDR.

Respondents also argued that mobile furniture permitted by the proposed PDR will cause obstruction. Concerns were raised with respect to access for older people, people with impaired mobility or vision, and for pedestrians and wheelers – with prams and buggies, wheelchairs and mobility scooters all referenced. Reducing both obstacles on pavements and street clutter was highlighted as important for those who rely on sighted assistance, canes, and guide dogs. It was reported that temporary permissions during the pandemic *did* create barriers for disabled people, often resulting in disabled people staying away from areas that were too difficult for them to navigate. Reduced safety standards, loss of confidence for disabled people

and reduced inclusivity were all cited as reasons the PDR should not be introduced. Concerns were also expressed that, if multiple adjacent businesses made use of PDR, whole sections of footway could be lost and that businesses may exploit the increased flexibility to the detriment of public amenity.

Specific issues were raised in relation to noise, including because a seating area may not always be directly in front of the business premises. A ‘third sector – Community council’ respondent was among those who highlighted experiences of residents of the village of Luss on Loch Lomond where, it was reported, temporary approval for use of outside space has contributed to noise and nuisance for neighbouring properties. Respondents argued both that the temporary arrangements put in place during the pandemic should not be made permanent, and that a blanket PDR would be inappropriate for small towns and villages and for conservation areas.

Issues relating to the appearance and visual impact of mobile furniture were also raised in the context of conservation areas and World Heritage Sites and it was argued PDR in designated areas would be in contravention of legislation and policy protecting the historic environment. It was also noted that the updated Sustainability Appraisal (published with the consultation paper) identifies potential for negative effects on the setting of both designated and undesignated cultural and historic assets if furniture is placed insensitively. An alternative perspective was that a PDR applying only to moveable furniture could apply both in conservation areas and within the curtilage of listed buildings as there would be no permanent impact on their character and appearance.

Clarity on the nature of the proposals

A number of ‘planning authority’ respondents commented on whether the placement of movable furniture constitutes ‘development’ under the Town and Country Planning (Scotland) Act 1997 (the 1997 Act), with one suggesting that it is the change of use of the land to ‘outdoor seating area’ that would require planning permission. It was suggested both that a PDR would need to ensure that such a change of use is covered, but also that a requirement for planning permission for any structures such as canopies or decking that would constitute development should be retained.

It was also thought there should be clarity that the proposed PDR alone would not be sufficient to allow moveable furniture to be placed on a roadway.

Adequacy of control under other legislation

‘Planning authority’ respondents in particular commented on the extent to which impacts of moveable furniture could be controlled via other legislation. Points raised included that:

- It could be appropriate to deal with moveable furniture under roads, licensing and/or environmental health legislation.
- The apparent duplication in planning, licensing and roads legislation actually deals with specific issues.

- PDR for moveable furniture would only be appropriate where licensing conditions apply and can be used to control impacts.

It was also noted that control via regimes other than planning would be reactive rather than proactive, potentially creating uncertainty for business operators.

Roads Scotland Act 1984

Reflecting the consultation paper, respondents observed that Section 59 of the Roads (Scotland) Act 1984 requires that a permit is obtained from the Roads Authority before placing furniture a roadway, and it was argued that this requirement could mitigate any potential impacts on access. It was also observed that permits under Section 59 would regulate the hours of operation of outdoor areas, as would liquor licences.

A less positive view was that the Roads (Scotland) Act consenting process does not consider wider amenity or residential amenity in the way the planning process would. It was also argued that planning department staff may have greater awareness of public realm design principles than those in a highways department, and that appropriate design guidance and public sector design skills are needed to mitigate potential problems.

Licensing and Environmental Health

There was a suggestion that both hours of operation and any maintenance requirements could be controlled via the licensing process but also concern that, if licensing controls were not adequate to prevent disturbance to neighbours, Environmental Health officers would need to use Statutory Nuisance provisions to control noise. There were views both that noise could, or could potentially, be controlled by Environmental Health legislation, and that limited noise mitigation measures could be implemented. One 'planning authority' respondent thought it unclear whether noise arising from the use of the public pavement could be actioned as a Statutory Nuisance, while another reported the view of colleagues in Environmental Health that there is no reason to change planning policy with respect to outdoor seating areas in town centres since potential noise impacts from such areas have not changed.

Question 28 – Are there any conditions or limitations that you think such a PDR should be subject to?

Responses to Question 28 by respondent type are set out in Table 28 below.

Table 23

Respondent type	Yes	No	Total
Organisations	25	4	29
% of organisations	86%	14%	100%
Planning authority	13	2	15
Professional or representative body	3	0	3
Public body or corporation	0	0	0
Private sector	3	2	5
<i>Energy and transport</i>	0	0	0
<i>Hospitality</i>	0	1	1
<i>Other</i>	3	1	4
Third sector	6	0	6
<i>Active travel</i>	2	0	2
<i>Community Council</i>	0	0	0
<i>Other</i>	4	0	4
Individuals	8	2	10
% of individuals	80%	20%	100%
All respondents	33	6	39
% of all respondents	85%	15%	100%

A large majority – 85% of those who answered the question – thought that there should be conditions or limitations on a PDR for moveable furniture.

Around 40 respondents made an additional comment at Question 28.

Among respondents who disagreed, two ‘planning authority’ respondents did so on the grounds that such a PDR should not be introduced at all. Otherwise, very much a minority view was that individual licensees are best placed to make decisions in respect of outdoor seating, working together with local communities, residents and the local authority. Other respondents who commented suggested conditions of some kind.

Limiting locations

Suggestions included that the PDR might not be acceptable in all locations, or that planning consent might be required within a certain distance of a sensitive receptor, although that this would be difficult to quantify. A ‘third sector - other’ respondent highlighted conservation areas and World Heritage Sites as locations where PDR should not be available, while a ‘public body or corporation’ respondent noted that the Sustainability Appraisal suggests mitigation involving prior notification/prior approval in conservation areas. They proposed that the same principle could be extended to include World Heritage Sites and the setting of scheduled monuments and listed buildings.

Limiting conditions

As at Question 27, respondents often emphasised the need to ensure inclusive access is maintained. It was suggested an assessment of pedestrian and traffic safety impacts should be required or that an Equality Impact Assessment should be carried out. Requirements for local authorities to comply with both the substantive

duties of the Equality Act 2010 and the Public Sector Equality Duty were highlighted.

A number of respondents noted that the width of the footway should be specified, with a suggestion that a 2 metre minimum width should be retained and that this should be wider in areas of high footfall. It was argued that, if this cannot be achieved, planning permission should be required. UK Government guidance [Inclusive Mobility A Guide to Best Practice on Access to Pedestrian and Transport Infrastructure](#) was reported to specify a width of 2 metres as the minimum needed to allow two wheelchair/mobility scooter users to pass. Regulation of positioning of furniture relative to kerbs, pavements and ramps was also recommended.

Other conditions that respondents thought should be applied to the proposed PDR included:

- **Hours of operation.** It was suggested that there could be a significant impact on residential amenity and that opening hours could be linked to distance from residential property, although also that residents in a town centre cannot expect the quiet of residential areas. One 'planning authority' respondent suggested that hours should be limited to 9am – 9pm with the area to be vacated by 9pm. Although comments often applied to noise, consideration of the potential impact of light pollution through the introduction of outdoor lighting was also suggested.
- **Size and location of seating area.** It was argued that there should be a restriction on the size of an area and/or the number of tables, and that any outside space should not increase beyond the capacity of the internal premises since sanitary facilities will still be required. Restriction to the section of road immediately outside the premises was suggested, as was a requirement that the outdoor seating area should be within 10 metres of the principal elevation of the premises. It was also suggested that one business should not be permitted to unfairly take outside space from competitors.
- **Demarcation of seating area.** Clear demarcation of the seating area was highlighted as important for visually impaired people. A specific proposal was that highly visible, moveable barriers (such as decorative planters) should be used to contain moveable furniture when in use.
- **Design.** It was argued that design codes should ensure not only that visual impact is considered (especially in conservation areas) but also that furniture is inclusive, well designed and sustainable.
- **Furniture must be genuinely moveable.** It was argued that furniture that is fixed in place should require planning permission.
- **Furniture storage.** Furniture should be removed and stored safely and securely when not in use.
- **Cumulative development.** The potential impact on amenity of cumulative development was noted, both where outdoor space is constrained and where there are residential neighbours.

Other suggested conditions included that there should be restrictions or bans in relation to: tents, marquees or other similar installations; amplified music; smoking; advertising; use of external heaters; and storage of commercial waste bins.

Question 29 – Are there any uses other than (Class 3) food and drink premises which you consider such a PDR should apply to?

Responses to Question 29 by respondent type are set out in Table 24 below.

Table 24

Respondent type	Yes	No	Total
Organisations	9	16	25
% of organisations	36%	64%	100%
Planning authority	2	11	13
Professional or representative body	0	4	4
Public body or corporation	0	0	0
Private sector	5	0	5
<i>Energy and transport</i>	0	0	0
<i>Hospitality</i>	3	0	3
<i>Other</i>	2	0	2
Third sector	2	1	3
<i>Active travel</i>	0	0	0
<i>Community Council</i>	0	0	0
<i>Other</i>	2	1	3
Individuals	3	8	11
% of individuals	27%	73%	100%
All respondents	12	24	36
% of all respondents	33%	67%	100%

A majority of respondents – 67% of those who answered the question – did not think that there are any uses other than (Class 3) food and drink premises that a PDR for moveable furniture should apply to. All ‘professional or representative body’ respondents and majority of ‘planning authority’ respondents did not think the proposed PDR should apply to other uses, while all ‘private sector’ respondents thought it should.

Around 25 respondents made an additional comment at Question 29.

Pubs and bars

The most frequent suggestion was that the PDR should apply to public houses, to pubs and bars (sui generis use) or to all licensed premises. ‘Private sector – hospitality’ respondents were among those who argued the PDR should apply to pubs and bars since:

- Such businesses need ongoing help to recover from the Covid-19 pandemic and many have invested in development of innovative outdoor spaces.
- In practice, there may be little difference between Class 3 food and drink businesses and sui generis licensed premises.

- Excluding pubs and bars would give an unfair advantage to businesses that may be competing for the same customers.

It was also argued that increased capacity could improve viability of the community pubs and social clubs that play an important social role.

Some 'planning authority' respondents noted that public houses may offer similar food and drink availability to Class 3 uses, that public houses may seek to be included in the PDR, or that there is a case for their inclusion. However, they sometimes took a view that a planning application should be required in this case. It was argued that the nature of a public house could result in additional amenity implications over Class 3 use with later operating hours, noise and disruption, and risk of anti-social behaviour all referenced. If public houses were to be included in the PDR it was suggested there would need to be strict controls over hours of operation and the size of the area permitted.

Other suggestions

Respondents also suggested a number of other potential uses for the proposed PDR although the 'planning authority' respondents who did so, sometimes also highlighted potential concerns or reasons these should not be pursued. Two general points were that:

- Other potential changes of use outside Class 3 are likely to be of a temporary nature and would require consents not covered within PDR.
- The purpose of the road is to provide a public right of passage and further uses should require a planning application.

Class 1

Potential uses: Retail premises including local food shops, sandwich/ice cream shops, market stalls/pop up shops, or charity shops. For example, it was suggested that limited displays outside shop fronts could bring vitality to town centres.

Concerns: Design parameters should be considered to minimise visual impacts.

Class 7

Potential uses: Hotels and hostels, which may provide food and drink similar to Class 3 uses.

Concerns: Impact on residential amenity would need to be assessed.

Class 10 and 11

Potential uses: Premises such as museums or concert halls, which sell food and drink.

Concerns: Again, impact on surrounding amenity.

Sui generis uses

Potential uses: Hot food takeaways.

Concerns: Hours of operation would need to be restricted. Other reservations were similar to those for public houses.

Alternative approaches

Rather than extending PDR, it was suggested that, as in England, a streamlined system for [pavement licences for outdoor seating](#) could be considered.

Another suggestion was that, for pedestrianised urban centres, a ‘one stop shop’ approach could allow planning permission for a whole area to be obtained, with details of each seating areas/outdoor furniture defined in advance. It was proposed that one application could cover licensing, Section 59 roads occupation and planning permission.

Some ‘private sector – hospitality’ respondents called on the Scottish Government to go beyond consideration of moveable furniture and to replicate changes to PDR in England that allow pubs, restaurants and cafes to erect [moveable, non-permanent structures](#) (such as marquees) without the need to apply for planning permission.

Question 30 – Do you agree that important matters such as safety and inclusive access could continue be controlled through other regimes that would continue to apply?

Responses to Question 30 by respondent type are set out in Table 25 below.

Table 25

Respondent type	Yes	No	Total
Organisations	27	6	33
% of organisations	82%	18%	100%
Planning authority	11	5	16
Professional or representative body	4	0	4
Public body or corporation	0	0	0
Private sector	7	0	7
<i>Energy and transport</i>	0	0	0
<i>Hospitality</i>	2	0	2
<i>Other</i>	5	0	5
Third sector	5	1	6
<i>Active travel</i>	3	0	3
<i>Community Council</i>	0	0	0
<i>Other</i>	2	1	3
Individuals	7	4	11
% of individuals	64%	36%	100%
All respondents	34	10	44
% of all respondents	77%	23%	100%

A majority – 77% of those who answered the question – thought that matters such as safety and inclusive access could continue be controlled through other regimes that would continue to apply. Most of those respondents who disagreed at Question

30, including several 'planning authority' respondents, had also disagreed at Question 27.

Around 40 respondents made a comment at Question 30.

Points raised often echoed issues covered at Question 27, with several respondents highlighting the importance of safety and inclusive access and some 'third sector - active travel' respondents emphasising that moveable furniture should not take space away from walking, wheeling and cycling.

Whether control of safety and inclusive access is possible

Some respondents argued that safety and inclusive access are likely to be compromised without appropriate planning controls, or that it is not clear how other regimes can control these matters. A 'third sector – other' respondent reported their own experience that outdoor eating structures cause a range of issues, including with respect to safety and inclusive access.

However, the majority view was that controlling safety and access via other regimes is possible. While a small number of respondents pointed to licensing arrangements and/or Environmental Health regulation, many more referenced the Roads Authority or the Roads (Scotland) Act 1984 as providing such control. It was also suggested that a streamlined system for pavement licences could be developed to ensure that clear access routes on the highway are maintained.

Other implications

Although agreeing that control by other regimes would be possible, some respondents noted that this would not involve an assessment of wider impacts on amenity (including visual amenity) or character, and that the current process provides scope for Planners to consider unforeseen issues. It was also thought that the proposed PDR would require:

- Additional training for staff in other departments, who may lack a Planner's experience in public realm design.
- A significant change to many Roads Authorities' procedures.

Conditions to be met

Some respondents proposed additional conditions to ensure safety and inclusive access, including that a safety audit should be carried out and should demonstrate both that the Roads Authority has been consulted, and that their views have been taken into account. In the event of an objection from the Roads Authority it was argued the PDR should not apply. Other suggested conditions included:

- A requirement for inclusive access to be set out in the PDR wording or, specifically, a requirement for a 2 metre wide footway to be kept clear at all times.
- Where possible, placement of moveable furniture on the carriageway, parallel to the kerb and in line with other street furniture. As well as maintaining

pavement widths it was suggested this could reduce potential trip hazards arising from trailing cables and other equipment.

PDR for provision of residential accommodation

The consultation paper notes that the draft NPF4 encourages and supports town centre living, making clear that proposals for new residential development in city/town centres should be supported. However, it also notes that there have been concerns about the quality of properties developed under PDR, particularly where offices are converted to residential accommodation, and that developer contributions cannot generally be sought where development is authorised under PDR.

The Scottish Government is not minded to introduce new PDR providing for the conversion of shops, offices and other 'town centre' uses to residential units, taking the view is that development should be plan-led, with proposals assessed through the planning application process.

Question 31 – Do you agree that new residential development in Scotland's centres should be plan-led rather than consented through new PDR?

Responses to Question 31 by respondent type are set out in Table 26 below.

Table 26

Respondent type	Yes	No	Total
Organisations	32	2	34
% of organisations	94%	6%	100%
Planning authority	18	0	18
Professional or representative body	5	1	6
Public body or corporation	2	0	2
Private sector	0	1	1
<i>Energy and transport</i>	0	0	0
<i>Hospitality</i>	0	0	0
<i>Other</i>	0	1	1
Third sector	7	0	7
<i>Active travel</i>	3	0	3
<i>Community Council</i>	0	0	0
<i>Other</i>	4	0	4
Individuals	10	2	12
% of individuals	83%	17%	100%
All respondents	42	4	46
% of all respondents	91%	9%	100%

A substantial majority of respondents – 91% of those answering the question – agreed that new residential development in Scotland's centres should be plan-led rather than consented through new PDR. Only one 'professional or representative body', one 'private sector - other' and two 'individual' respondents did not agree.

Around 40 respondents made a comment at Question 31.

A number of those who supported a plan-led approach simply noted that they agreed with the explanation set out in the consultation paper. Further comments included that planning control is essential, with a plan-led approach allowing development to be located in the best areas, supporting the creation of 20-minute neighbourhoods, and allowing potential use conflicts to be addressed at an early stage. In relation to possible conflict, it was reported that in England, where such PDR rights already exist, there have been conflicts between incoming residents and existing noise-generating venues. Also with reference to the experience in England, there was reference to poor quality living environments and sub-standard housing.

Other advantages that respondents connected to the plan-led approach included that it:

- Allows for a local response, including by creating consultation opportunities.
- Allows for the impact on infrastructure and local public services, including schools and medical facilities, to be taken into account. It also allows for the consideration of changes in streets.
- Can help ensure equitable and flexible access to town centre living irrespective of an individual's age or mobility/ability and transport requirements.
- Can help with managing environmental impacts, including allowing for the balanced consideration of flood risk issues.
- Allows for issues that will directly affect those living in the properties – such as the provision of daylight, communal bin storage and provision of outside space – to be taken into account.

As at earlier questions, there were also references to the impact on the vitality and viability of town centres, including by supporting high footfall uses. An associated point was that residential accommodation will always be a more lucrative option for owners and introducing PDR for residential development in town centres would lead to a significant risk of altering the nature of town centres and encouraging out of town retail developments.

Issues raised by those who did not agree that new residential development should be plan-led, and who supported PDR, included that lessons have been learned from the experience in England. They reported that minimum space standards and tighter building control regulations are now required, and that a better regulated PDR would be an option for Scotland. It was suggested that a PDR could help promote diversity, reduce vacancy rates and would reflect the changing retail landscape in the post-pandemic world. In terms of how a PDR could work there was reference to space standards and housing quality criteria being satisfied.

Question 32 – Are there any other PDR changes which you think could support the regeneration, resilience and recovery of centres? Please explain your answer.

Responses to Question 32 by respondent type are set out in Table 27 below.

Table 27

Respondent type	Yes	No	Total
Organisations	18	10	28
% of organisations	64%	36%	100%
Planning authority	9	7	16
Professional or representative body	4	1	5
Public body or corporation	0	0	0
Private sector	1	1	2
<i>Energy and transport</i>	0	0	0
<i>Hospitality</i>	0	0	0
<i>Other</i>	1	1	2
Third sector	4	1	5
<i>Active travel</i>	2	0	2
<i>Community Council</i>	0	0	0
<i>Other</i>	2	1	3
Individuals	1	7	8
% of individuals	12%	88%	100%
All respondents	19	17	36
% of all respondents	53%	47%	100%

A small majority of respondents who answered the question – 53 % – thought there are other PDR changes that could support the regeneration, resilience and recovery of centres. Organisations were much more likely to identify other potential changes than ‘individual’ respondents at 64% and 13% respectively, with the majority of ‘planning authority’ respondents identifying potential for other changes

Around 25 respondents commented at Question 32, with the majority suggesting other possible PDR changes, although there was also a view that planning is best left to regional decision makers who understand the challenges in their communities.

Temporary use

The most frequent suggestion was that consideration should be given to allowing temporary use of buildings, and that this could be for 28 days or for up to 3 months. Respondents suggested that a PDR might apply to buildings and their curtilage, up to a limited floor area. Some respondents specified that their proposal would apply to vacant buildings. Among potential benefits identified were: reducing vacancies; flexibility – for example to adapt to changing circumstances; promoting entrepreneurship and allowing businesses/owners to test different options before applying for planning permission; permitting pop-up shops or ‘good neighbour’ town centre uses; and providing support for events.

A specific suggestion for temporary changes was between Classes 1, 2, and from a 1 or 2 to a Class 4.

A change to Class 15 PDR which allows the temporary use of land and the erection of moveable structures for up to 28 days a year was also suggested. For example, it was argued extending the duration to 45/60 days a year could remove the need for a number of planning applications associated with the Edinburgh Festivals.

Other suggestions

Respondents also proposed a number of other circumstances where PDR might provide support for centres, including by facilitating access to secure cycle storage and cycle parking and, more generally, by supporting the sustainable travel hierarchy.

Suggestions with respect to commercial uses included:

- Alterations to shopfronts (outside of conservation areas and excluding listed buildings) to remove a barrier for businesses to establish.
- Part change of use allowing Class 1 premises to increase hot food, so restaurants can increase takeaway sales.
- Some sui generis uses where there may be scope for interchangeable use. The example given was change from public house to night club (or vice versa), where regulation through licensing controls might be appropriate.
- Opening use of long-vacant buildings to Class 1, 2, 3, or 10 use. This could be dependent on a building being vacant for three years or more and on any impact on residential amenity.

In terms of potential residential use in centres, there was a general suggestion of using PDR to manage town centres for a mix of uses, including residential amenity. Specific suggestions included:

- With limitations, upper floor conversion from office or retail storage use to residential flats.
- Allowing premises where the prior or original use was as a residential property to revert back to that use, with restricted application to a single dwellinghouse, but not for the formation of multiple flats.

Finally, there was a request to close what was seen as a loophole in the current planning system that allows pubs to be demolished without planning permission, thereby preventing communities from objecting to such plans.

4. Port Development

PDR for ports

The Scottish Government is considering whether port operators' PDR are fit for purpose and whether amending them could support the Scottish and UK Governments' objectives for Green Freeports. The consultation paper explains that, following a UK Government decision to amend the Class B PDR that apply to port operators in England, the Scottish Government is minded to take forward similar measures in Scotland to ensure a level playing field between English and Scottish ports. In Scotland, port operator PDR are contained in Class 35 of Schedule 1 to the GPDO. Any new PDR would apply to all ports within Class 35 definition and not just to prospective Green Freeports.

Question 33 – Do you agree that, with respect to the PDR, there should be a level playing field between English and Scottish ports?

Responses to Question 33 by respondent type are set out in Table 28 below.

Table 28

Respondent type	Yes	No	Total
Organisations	21	2	23
% of organisations	91%	9%	100%
Planning authority	12	0	12
Professional or representative body	2	0	2
Public body or corporation	1	0	1
Private sector	6	0	6
<i>Energy and transport</i>	4	0	4
<i>Hospitality</i>	1	0	1
<i>Other</i>	1	0	1
Third sector	0	2	2
<i>Active travel</i>	0	0	0
<i>Community Council</i>	0	0	0
<i>Other</i>	0	2	2
Individuals	8	1	9
% of individuals	89%	11%	100%
All respondents	29	3	32
% of all respondents	91%	9%	100%

A substantial majority of those who answered the question – 91% – agreed that, with respect to PDR, there should be a level playing field between English and Scottish ports. Among organisations, only 'third sector – other' respondents disagreed.¹⁰

¹⁰ As noted below under 'Reasons for caution', rather than an objection to a level playing field, this reflected a view that any PDR should be appropriate for Scottish purposes, rather than simply replicating English wording.

Around 30 respondents provided an additional comment at Question 33, including several who did not answer the closed question. Most responses were relatively short although a small number of respondents provided more extensive content.

Reasons there should be a level playing field

Respondents agreed that, in principle, there should be a level playing field between English and Scottish ports, although in some cases adding caveats in relation to the detail of any potential changes to PDR. Reasons given in support of a level playing field were most frequently the economic importance of parity between ports in England and Scotland and the risk that Scottish ports could be placed at a competitive disadvantage in the absence of equivalent PDR. A level playing field was considered important both in the light of the likely mobility of investment funding, and a possibility that development could be attracted to less sustainable areas if some ports provide less of an obstacle for development than others. While some respondents noted general benefits to economic development arising from PDR parity with English ports, others highlighted the ability to compete for development associated with offshore renewables in particular.

It was also suggested that:

- Reducing the number of regionally specific criteria could benefit contractors that work in both countries.
- A level playing field should be extended to include private ports.

Rather than simply aspiring to a level playing field, a small number of respondents suggested that the Scottish Government could go further to identify positive differences that could act in Scotland's favour.

It was also suggested that PDR would be more effective if they cut across both marine developments (such as new quays) consented by Marine Scotland and land-based works consented by the local planning authority.

Some respondents referenced specific amendments they would welcome beyond the changes to Class B PDR implemented in England. These are included in the analysis at Question 35.

Reasons for caution

Lack of detail

Some respondents agreed with the consultation paper that it is not clear what type of development can now be carried out at English ports that would not have been permitted prior to the amendment or the nature of the changes that might result. There was also a view that any wholesale expansion in port-related PDR should be considered carefully as changes could have significant impacts, for example on amenity of neighbouring residents. Potential noise issues associated with port activities were highlighted.

Any PDR changes should be appropriate for Scotland

Both respondents who agreed there should be a level playing field and some who did not argued that, rather than necessarily mirroring changes to English planning policy, amendments to PDR in Scotland should be based on an understanding of benefits and impacts in Scotland. It was suggested that even if the effect is intended to be equivalent, the Scottish Government should consider whether the drafting of the PDR with respect to ports could be improved.

Retaining existing benefits

'Private sector – energy and transport' respondents were among those who highlighted a number of aspects of the existing PDR system that they would not wish to see changed, including that:

- Amended PDR should not result in a reduction in current permissions.
- Additional administrative requirements should not undermine PDR.

Potential administrative requirements – particularly a requirement for consultation with the planning authority – are discussed further at Question 34.

Question 34 – With respect to the amendments in England (see Box 5), what do you think the practical effect of making an equivalent change to Class 35 PDR would be – in terms of developments/activities that would be permitted which are not currently?

Around 25 respondents answered Question 34.

General comments included that the changes to PDR made in England are vague or that it is not clear what the practical effects of an equivalent change to Class 35 PDR would be. It was also argued that a further consultation on this proposed PDR should be carried out once more detail on the practical nature of changes has been gathered and an environmental assessment has been carried out.

However, there were also views that the effects would be to:

- Ensure a level playing field between English and Scottish ports.
- Significantly enhance existing PDR for ports and allow greater flexibility to undertake development.
- Support the various sectors that use ports by making development easier.
- Better support port-centric operations, assembly and processing activities.

There was a call for revisions to PDR to provide certainty on what activities are defined as port operations and it was argued that narrow interpretation or limited understanding of the regulations on the part of planning authorities could limit the scope of permitted development.

Some respondents commented in general terms on the possibility that potential changes to PDR might lead to excessive development, with a 'third sector – other' respondent taking the view that any moves away from port-related uses (for

example to residential or retail purposes) should require a planning application. A 'private sector - energy and transport' respondent argued that the proposed changes should not and would not equate to giving carte blanche to development completely unrelated to port-related activities, and that a clear operational and/or strong commercial relationship to the port and associated marine environment activities should be required.

Specific amendments in England

Addition of '...or agents of development (including the erection or alteration of an operational building)'

This was described as a reasonable amendment with the additional wording seen as giving greater flexibility and as making PDR more widely available to the agents of development and not just those defined as statutory undertakers by the relevant legislation. There was also a view that rights should not be conferred on lessees.

It was suggested that it will be necessary to:

- Define 'agents of development' and to set out how they would demonstrate a relationship with the statutory undertaker. Rather than 'agents of development' one respondent suggested using the phrase 'such others as may be permitted by the statutory undertaker'.
- Define 'operational building'.

On the latter point it was suggested that the only definition of an operational building in the Scottish GPDO is solely in the context of airport PDR, leaving interpretation of what constitutes a port-related operational building with the planning authority. Clarification was proposed that an operational building would constitute any building on operational land that has been used, or is proposed to be used, for development within the descriptions under Class 35 of the Scottish GPDO. It was also suggested that, as a minimum, guidance should be issued by the Scottish Government to confirm that the term must be interpreted broadly to encompass the proposed changes to port and harbour buildings envisaged as part of its Green Freeport proposals.

Addition of '...in connection with the provision of services and facilities'

Some respondents welcomed the revised drafting with comments including that the amended wording has potential to remove administrative burden and delay due to current ambiguity over what falls within the parameters of Class B (a) or (b). It was anticipated that this will allow:

- Greater scope to deal with matters such as providing staff welfare facilities.
- Development of buildings, structures and plant involved in offshore maintenance and decommissioning activities, and activities related to other parts of the energy industry without the need to apply for planning permission.
- PDR for services and facilities, provided they relate to an operational capacity.

However, it was noted that no definition of 'services and facilities' is provided, and concerns were raised that:

- There would need to be case law to define these terms, the legislation may not be implemented as intended, and there may be varying interpretations.
- There is scope for this clause to be used too widely and not in direct relation to harbour related activities, with a risk of unintended consequences and a wide variety of industrial operational buildings being constructed.
- Some port facilities include scheduled monuments and sites of archaeological significance, and there is a risk that development could proceed without recording and, if appropriate, preservation of important archaeological remains.

Condition relating to the relevant statutory undertaker consulting the local planning authority before carrying out development

Some respondents referenced the requirement for consultation with planning authorities introduced as part of recent PDR changes in England, arguing that this should not be replicated in Scotland, as it would water down the current PDR by adding an additional administrative hurdle, or that any consultation must be proportionate. It was noted that, at present, Class 35 PDR does not require statutory undertakers or their lessees to consult the planning authority prior to carrying out development. Arguments in favour of retaining this position included:

- The range of other consenting processes to which port development and operations are already subject.
- The limited extent of PDR covering ‘port related development’ and the appropriate nature of such development within operational ports and harbours.
- A risk that an additional administrative burden could delay or discourage port-related development, potentially restricting the ability of port and harbour infrastructure to adapt swiftly to national and global emergencies.

Some ‘planning authority’ respondents also commented on the requirement for consultation, with views including both that the principle of consultation with the planning authority is welcome but also that the requirements in practice are unclear and that neither the form of such a consultation, nor any rights for the planning authority to block development are specified.

A further suggestion was that a requirement for consultation should be extended to include provision for engagement with local communities as appropriate, to ensure community interests are represented.

Exclusions

As a general point it was noted that the proposed exclusions are more extensive than under existing legislation.

Two respondents disagreed with inclusion at B (c) (ii) of ‘...where its design or external appearance would be materially affected’ noting that, since ‘materially affected’ is undefined, it would fall to the planning authority to determine how this should be interpreted, with potential for uncertainty and delay. It was argued this

text should not be added to Class 35 since article 3(8) of the Scottish GPDO already specifies that, where development is likely to have a significant effect on the environment, then the development is not permitted under Class 35.

Question 35 – Do you think there is potential to widen the scope of Class 35 PDR further?

Responses to Question 35 by respondent type are set out in Table 29 below.

Table 29

Respondent type	Yes	No	Total
Organisations	9	6	15
% of organisations	60%	40%	100%
Planning authority	3	5	8
Professional or representative body	1	1	2
Public body or corporation	1	0	1
Private sector	3	0	3
<i>Energy and transport</i>	2	0	2
<i>Hospitality</i>	0	0	0
<i>Other</i>	1	0	1
Third sector	1	0	1
<i>Active travel</i>	0	0	0
<i>Community Council</i>	0	0	0
<i>Other</i>	1	0	1
Individuals	3	2	5
% of individuals	60%	40%	100%
All respondents	12	8	20
% of all respondents	60%	40%	100%

A majority of those who answered the question – 60% – thought that there is potential to widen the scope of Class 35 PDR further. However, their additional comments suggested that some respondents may have interpreted the question as referring to an extension of the *existing* Class 35 PDR to give parity with English ports and others to an extension of Class 35 *beyond* that required to give parity with PDR for English ports.

Around 25 respondents provided an additional comment at Question 35.

Reasons Class 35 PDR are wide enough

Some respondents considered that the scope of Class 35 PDR is already wide, and potentially too wide, with one suggestion that existing provisions may be used inappropriately. Others felt that providing parity with rights now available in England would be adequate.

As an alternative to a broad extension of PDR it was suggested that it would be more appropriate to recognise the strategic importance of port infrastructure through the National Planning Framework, Regional Strategies and Development

Plans. In this context it was thought that MCAs may be more a more suitable option. MCAs are considered further at Question 36.

Reasons there is potential to widen scope further

Some respondents who thought PDR could be widened further made general points including:

- Encouraging the Scottish Government to engage with port operators and also to ensure that any additional proposals take account of local community interests.
- Highlighting the importance of avoiding potential harm to the historic environment through any process or system.

Suggestions for other revisions

Specific suggestions for extending the scope of PDR were largely made by 'private sector - energy and transport' and 'private sector - other' respondents. Actions suggested are summarised below.

Consider higher thresholds: It was suggested that leaving the EU creates an opportunity to reconsider the thresholds for Environmental Impact Assessment (EIA) Screening in Schedule 1 (relating size of vessels) and Schedule 2 (including the area of the works of harbour projects). Particularly with respect to offshore green energy, it was argued that an expansion of size thresholds would widen the opportunities for Scottish ports and surrounding communities. With respect to Schedule 2, an increase from the current threshold of one hectare to four hectares or 20,000 square metres was proposed.

Authorise assembly and processing of goods: Amendments were suggested to expressly support economic activity associated with sustainability related infrastructure, including the assembly of products. A new class that explicitly authorises development for the 'assembly and processing of goods' was proposed in support of renewable energy infrastructure and activities such as wind turbine assembly and manufacturing. Greater certainty that such development is authorised under Class 35 of the Scottish GPDO was suggested to be essential.

It was also suggested that:

- There should be specific provision for processing of goods which transit through ports. In addition to general processing and assembly, benefits to green offshore energy and processing of seafood were highlighted.
- Class 35(1) (b) should be modified to read '...transport of passengers, livestock or goods (including the assembly, alteration and processing of goods) at a dock, pier or harbour...'

Specify operation and maintenance facilities for the offshore renewable

sector: It was reported that securing planning permission through a traditional application process can cause delays and it was argued provision of these facilities should be made available through PDR.

Authorise development for Green Freeports: General liberalisation of planning control for Green Freeports was suggested, with inclusion of a new category that explicitly authorises development 'required for the purposes of the development, operation and maintenance of a Green Freeport'.

Include marinas: It was suggested to be unclear if marinas would be classified as docks and that marinas could be added if there was a desire to widen the scope of the PDR.

Reconsider environmental and historical conservation designations: It was observed that Scotland has a large number of environmental and historical conservation designations where PDR does not apply, putting Scottish ports at a disadvantage. Since PDR does not apply when an EIA is needed, or if there are Likely Significant Effects (LSE) under The Conservation (Natural Habitats, &c.) Regulations 1994, it was argued developments which can be completed under PDR will be limited.

It was also argued that PDR should support demolition and redevelopment for port-related use of older stone buildings (including listed buildings) that remain in some port areas.

Review use of Article 4 direction: If concerned that a development should not proceed or should obtain planning permission, a planning authority can seek to restrict permitted development through the use of an Article 4 direction. It was reported that this is often used in relation to environmental conservation and that some planning authorities use this as a blanket requirement covering all port developments, leading to delays. A simpler system to allow PDR to be used where appropriate was requested.

Clarify responsibilities: An improved process to agree responsibilities in the intertidal area was requested as it was reported development in this area can be delayed by disagreements about which body leads on planning approvals.

It was also suggested Class 35 could recognise that Harbour Authorities are Relevant Authorities under the Habitat Regulations. It was argued projects being considered under The Conservation (Natural Habitats, &c.) Regulations 1994 do not need to be considered by planning authorities, in that LSE are appropriately considered and Appropriate Assessments completed by the Harbour Authority in line with the regulations.

Clarify operational land: It was noted that Section 215 of the 1997 Act defines operational land in relation to statutory undertakers as land used for the purposes of the undertaking and land in which an interest is held for that purpose. It was suggested it would be useful to include this definition of operational land because land held by a port but not in operational use would not have PDR.

Masterplan Consent Areas

The consultation paper notes that, once the relevant powers are implemented, MCAs will provide planning authorities with a new tool to proactively promote

growth and development in specific locations. Because MCAs would be tailored to the particular circumstances of individual areas, they may be capable of providing much more extensive planning freedoms than is appropriate through a national PDR. MCAs could therefore play a valuable role in supporting future development at Scotland's ports.

Question 36 – Do you agree that MCA could be a useful tool to provide more extensive planning freedoms and flexibilities in Scotland's ports?

Responses to Question 36 by respondent type are set out in Table 30 below.

Table 30

Respondent type	Yes	No	Total
Organisations	18	2	20
% of organisations	90%	10%	100%
Planning authority	10	0	10
Professional or representative body	3	0	3
Public body or corporation	1	0	1
Private sector	3	1	4
<i>Energy and transport</i>	1	1	2
<i>Hospitality</i>	0	0	0
<i>Other</i>	2	0	2
Third sector	1	1	2
<i>Active travel</i>	0	0	0
<i>Community Council</i>	0	0	0
<i>Other</i>	1	1	2
Individuals	6	1	7
% of individuals	86%	14%	100%
All respondents	24	3	27
% of all respondents	89%	11%	100%

A substantial majority – 89% of those who answered the question – thought that MCAs could be a useful tool to provide more extensive planning freedoms and flexibilities in Scotland's ports.

Around 25 respondents provided an additional comment at Question 36, including several who had not answered the closed question.

Reasons MCAs could be a useful tool

Some respondents agreed MCAs could provide greater flexibility and an opportunity for a place-specific approach, targeting development opportunities in specific areas while also setting limitations and ensuring the right development happens in the right place.

Other potential benefits identified included that MCAs could:

- Afford opportunities for co-operation and constructive working between the various parties before implementation.

- Provide a basis for connecting terrestrial planning with Marine Master Planning Partnerships.
- Simplify the approvals process, create certainty and reduce costs relating to individual developments by front-loading the process in terms of technical surveys and assessments.
- Help ensure new uses do not increase flood risk and, where site constraints are identified, ensure the relevant key agency is consulted.
- Support developments associated with the offshore renewables sector which are likely to be location specific.
- Support regeneration and development associated with Green Freeports.

In some cases, respondents suggested that use of MCAs could be preferable to a broad expansion of PDR, allowing greater input from the planning authority while also providing the operator with the certainty of having a consent at the end of the process. For example, it was suggested that an MCA could present a more nuanced approach for the port of Grangemouth, where both the interests of the local community and the protection of an adjacent special protection area also need to be considered.

Since extending Class 35 PDR would apply not only to ports but also to canals, piers etc. it was also suggested that MCAs could allow for more extensive PDR within larger port areas.

Caveats and limitations

While there was broad support for use of MCAs, several caveats were added including that subordinate legislation introducing MCAs has yet to be put in place and they are not yet proven in practice. It was also argued that MCAs may not make the development process any more efficient than under current consenting processes.

Both the extensive work needed to establish a MCA and the significant resource allocation this will require on the part of local authorities were highlighted, with a view that this may not be feasible given current pressures. It was suggested that the Scottish Government should provide certainty around funding for MCAs. It was also argued that MCAs may not be developed quickly enough or widely enough to support the expansion of the renewables industry needed to meet climate change targets.

Related to these points there was a concern that the MCA process might be seen as an alternative to or might ‘water down’ potential relaxation of PDR for ports. Although seen as having potential as an additional tool for planning authorities in some circumstances – for example where large-scale redevelopment is proposed – some respondents were clear that MCAs cannot provide the flexibility for incremental development afforded by relaxation of PDR.

Other issues raised included that:

- Their effectiveness will depend on how frequently MCAs are updated to reflect the changing demands of ports and harbours.
- Care should be taken to avoid creating inequality between ports that have an MCA and those that do not, and to avoid disincentivising existing operations at other ports.
- Some projects are also subject to marine licencing which will become a constraining factor.
- MCAs should reflect local context and historic character, and should be informed by the views of local experts (including on the historic environment), communities and stakeholders.

Reasons MCAs are not a useful tool

A small number of respondents did not think MCAs will provide a useful tool. A 'third sector – other' respondent echoed a view also expressed at Question 22 that the proposed use misunderstands the intention for which MCAs were designed, namely to give greater confidence to developers by front-loading planning permissions, but not to remove planning protections.

A 'private sector - energy and transport' respondent argued that MCAs could present an obstacle to port development and do not currently offer any operational benefits. They were concerned that, once in place, planning authorities will be unwilling to modify MCAs which could thus act as a constraint on change in ports and harbours.

5. Assessment of Impacts

Sustainability Appraisal Update

The consultation paper notes that the programme for reviewing and extending PDR to date has been informed by a Sustainability Appraisal (SA) incorporating Strategic Environmental Assessment (SEA) requirements. Additional appraisal of the Phase 2 proposals, setting out the findings of appraisal of the emerging proposals for town centres and for EV charging infrastructure are provided as Annex A to the consultation paper, where proposals on PDR for port developments are also assessed for the first time.

Question 37 – What are your views on the findings of the Update to the 2019 Sustainability Appraisal Report at Annex A?

Seven respondents made a substantive comment at Question 37 and most contributions were very short. General comments included that the clear way in which previous findings of the 2019 SA and new findings in relation to Phase 2 proposals have been set out is welcome. It was also recommended that MCAs should be included as a reasonable alternative in the SA.

EV charging infrastructure

Findings with respect to EV charging were welcomed with agreement that, overall, PDR changes that lead to increased uptake of EV are likely to give rise to significant positive effects. There was also agreement that extended PDR should not be applied in areas where proposals could have a significant impact on heritage assets. It was recommended that there should also be consideration of:

- The effects on material assets of production of lithium batteries.
- Options for disposing of end-of -life batteries to minimise environmental impact.

Changes of use in Centres

Concern was expressed with respect to the proposed new merged use class since use Class 10 includes nurseries which, in flood risk terms, fall into the most vulnerable use class category. It was noted that with respect to nurseries and schools, a high value is placed on community impacts that would be caused by their potential loss or damage during a flood as well as the vulnerability of the occupants.

Port development

The SA Update notes that no new or additional impacts have been identified under the proposed new PDR for ports as it is unclear what additional development could be carried out under the changes. With respect to this finding, it was suggested that further details on the type of development and activities that could take place would be useful to allow an assessment of environmental impacts to be carried out, or that

reassessment should be undertaken once a clearer idea of potential additional types of development is available.

It was also recommended that Habitats Regulations Appraisal should be carried out as port development and activities have potential to affect marine European sites.

Sustainability Appraisal matrices

The SA Update included matrices setting out potential effects of reasonable alternatives in relation to: charging upstands in off-street car parks; on-street/kerbside charging; and moveable outdoor furniture on public road adjacent to food and drink premises. Although these matrices were welcomed, it was suggested that the assessment findings of all the proposed Phase 2 changes should be included.

Other Assessments

A number of partial and draft impact assessments were presented in Annexes B – F to the consultation paper.

Question 38 – Do you have any comments on the partial and draft impact assessments undertaken on these draft Phase 2 proposals?

Only four respondents made substantive comments at Question 38.

Annex B: Partial Business and Regulatory Impact Assessment (BRIA)

While it was acknowledged that increased PDR is intended to reduce burdens on planning authorities, it was observed that there would also be a reduction in planning fee income. It was argued that:

- The potential extent of lost income and resulting impacts on planning services should be assessed.
- If relaxations are limited to prior notifications, planning authorities will still require significant resources.

Also with respect to the partial BRIA, it was suggested that the option of leaving PDR as it is could undermine opportunities to repurpose existing buildings and act against projects intended to regenerate town and city centres.

Annex C: Draft Equality Impact Assessment (EqIA) Record

The consultation paper acknowledges that ‘there is potential for certain measures under consideration to have negative impacts if taking them forward leads to uncontrolled provision of certain development/ equipment/ structures on or adjacent to pavements’. It goes on to undertake to seek views on this point – and on the EqIA more generally – through the Phase 2 consultation.

Two ‘third sector - active travel’ respondents commented on the draft EqIA record and, specifically, on the statement on the extent/level of EQIA required. It was argued that determining real impacts will require extensive work with disabled

people and that an appropriate consultation needs to be accessible and to use non-technical language.

It was also suggested that:

- Any measures to encourage use of EVs at the expense of people who walk or cycle risks making economic inequalities worse.
- While designated areas are afforded protections, there is no overarching strategy on how necessary infrastructure is delivered to create good places, including places outwith designated areas. Since there is a correlation between areas of higher income and designated areas, PDR changes may disproportionately impact disadvantaged communities.

Question 39 – Do you have any suggestions for additional sources of information on the potential impacts of the proposals that could help inform our final assessments?

Ten respondents answered Question 39, with general suggestions including that experience of reforming PDR in other parts of UK or further afield could help inform final impact assessments.

With respect to PDR for EV charging infrastructure, it was recommended that development should be aligned with Historic Environment Policy for Scotland and with protections set out in the Historic Environment Scotland document ‘Scotland’s Scheduled Monuments’. It was also recommended that the Scottish Government should gather views on potential impacts on particularly sensitive landscapes, such as World Heritage Sites, conservation areas, and archaeological sites.

Other suggestions for specific sources of advice or information included:

- The English Heritage report ‘Heritage at Risk: Conservation Areas’ for information on how a series of small changes can lead ‘to slow but irreversible decline’ in the qualities of a conservation area.
- The Edinburgh Urban Design Panel for advice on how new developments can maintain the quality of the public realm.

A ‘third sector - active travel’ respondent offered to share their own work around ‘street clutter’.

With respect to PDR for encouraging commercial to residential conversion in town centres, suggested sources of information included:

- Research into the quality standard of homes delivered through change of use permitted development rights:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/902220/Research_report_quality_PDR_homes.pdf.
- Our Fragile High Streets – Death by Permitted Development Rights?:
<https://tcpa.org.uk/resources/our-fragile-high-streets-death-by-permitted-development-rights/>.

Annex 1 Organisations responding to the consultation

Planning authorities (n = 19)
Aberdeen City Council
Aberdeenshire Council
City of Edinburgh Council as Planning Authority
Dundee City Council
East Dunbartonshire Council
East Lothian Council, Planning Service
Falkirk Council
Glasgow City Council
Highland Council
Moray Council
North Ayrshire Council
North Lanarkshire Council
Orkney Islands Council
Perth and Kinross Council
Renfrewshire Council
South Lanarkshire Council
Stirling Council
West Dunbartonshire Council
West Lothian Council
Professional or representative body (n = 7)
Association of Town and City Management
Built Environment Forum Scotland (BEFS)
Chartered Institute of Architectural Technologists
Heads of Planning Scotland (HOPS)
Royal Town Planning Institute (RTPI) Scotland
Society of Chief Officers of Trading Standards in Scotland
The Chartered Institute of Building
Public body or corporation (n = 6)
Crown Estate Scotland
Historic Environment Scotland
Mobility and Access Committee for Scotland
NatureScot
Scottish Water
SEPA

Private sector: Energy and transport (n = 10)
British Ports Association
Electric Vehicle Association of Scotland
Fastned UK
Forth Ports Limited
GRIDSERVE Sustainable Energy Ltd
Osprey Charging Network
Scottish Renewables
Solar Energy Scotland
SSE Renewables
UK Major Ports Group
Private sector: Hospitality (n = 4)
Scottish Beer & Pub Association
Scottish Hospitality Group
Scottish Licensed Trade Association
UKHospitality Scotland
Private sector: Other (n = 9)
Aberdeen Inspired
Avison Young (UK) Limited on behalf of Nuveen Real Estate
Bidwells
Braehead Glasgow Ltd
Winchburgh Developments Limited
Pinsent Masons LLP
Savills (UK) Limited on behalf of Landsec
Scottish Land & Estates
Scottish Property Federation
Third sector: Active travel (n = 8)
Cycling Scotland
Cycling UK in Scotland
Edinburgh Bus Users Group
Living Street Edinburgh Group
Living Streets Scotland
Paths for All
Spokes, the Lothian Cycle Campaign
Sustrans Scotland

Third sector: Community Council (n = 2)
Aberdeen - City Centre Community City Council
Luss and Arden Community Council
Third sector: Other (n = 7)
CAMRA, the Campaign for Real Ale
Edinburgh World Heritage
Energy Saving Trust
Landscape Institute
RNIB (Royal National Institute for the Blind) Scotland
The National Trust for Scotland
Theatres Trust



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