

**REPORT ON PLANNING ON THE CONSULTATION BY THE SCOTTISH  
GOVERNMENT ON HOUSEHOLD PERMITTED DEVELOPMENT RIGHTS  
REPORT BY HEAD OF PLANNING SERVICES**

---

**1.0 INTRODUCTION**

- 1.1 As part of the Government's modernising planning agenda, the Government is looking at ways to relax planning controls in relation to existing dwellinghouse (with few exceptions flats are not included).
- 1.2 The Government's objective is to reduce the number of householder applications in the order of 38%.
- 1.3 The full consultation paper can be viewed at the Department of Development Services or on the Government's web site at [www.scotland.gov.uk](http://www.scotland.gov.uk) .

**2.0 RECOMMENDATIONS**

- 2.1 It is recommended that:
  - (i) Members note the contents of the report.
  - (ii) Forward the comments on each of the questions as detailed in Appendix A.

**3.0 SUMMARY OF THE MAIN CHANGES**

- 3.1 The Government propose to increase the level of development by householders which is allowed without applying for planning permission by making the following key changes:
  - Increasing the limit on such development within the curtilage of a house from 30% to 40% of the curtilage;
  - Increasing the proportional limit of the increase in the size of the original dwellinghouse from 10% of the total internal floor area to 50% of the development footprint of the original dwellinghouse (subject to a height limit);
  - Relaxing the restrictions on roof alterations on certain rear and side elevations to allow the construction of dormer extensions or other extensions which enter the roof;

- Relaxing certain restrictions on development near roads;
  - Introducing new rights covering decking, small porches and alterations to chimneys;
  - Introducing a single height restriction of 4 metres for separate development within the curtilage of a dwellinghouse.
- 3.2 The Government intend to introduce the following changes to standard conditions and restrictions to prevent overdevelopment as a result of these changes:
- An absolute limit of 60 square metres on the area of the curtilage of the dwellinghouse which can be developed;
  - A limit of 40% on the area of the rear curtilage which can be developed;
  - No permitted development within 1 metre of the property boundary;
  - No permitted development over 1 metre in height within 5 metres of a road if it is nearer to the road than the original dwellinghouse.

#### **4.0 KEY ISSUES RAISED BY THE CONSULTATION PAPER**

- 4.1
- The proposal will result in significant changes to what individuals can erect within the curtilage of a dwellinghouse without the need for planning permission.
  - Whilst this will reduce perceived “red tape”, it could result in increased privacy and amenity issues and neighbour disputes.
  - There are a number of concerns with definitions, in particular “Development Footprint” and “Principal Elevation”.
  - Will result in a reduction in planning fee income across Argyll and Bute.
  - Cumulatively and incrementally such permitted development could undermine environmental quality in particular the built heritage of our area.

#### **5.0 CONCLUSIONS**

- 5.1 The general thrust of the consultation is to reduce the need for planning permission in respect of householder developments by up to 38%. There is a general move towards greater restrictions in Conservation Areas and Listed Buildings, but relaxing restrictions elsewhere. This approach is generally to be welcomed but it is not

considered that the full impacts on privacy and amenity have been considered particularly in relation to the concept of a “Principal Elevation” and increased thresholds for extensions, particularly relative to terraces and semi-detached properties.

5.2 The ongoing issue of replacement windows in flatted properties is highlighted, but it is not considered that a reasonable permitted development right could be introduced due to the impact on the overall visual quality of a flatted property. In this respect, the ability to draw up reasonable and sensible permitted development rights without extensive “exclusions” to protect the overall quality of the building would be extremely difficult.

5.3 With some exceptions, the changes are to be welcomed, but could lead to greater staff time being given over to privacy and amenity complaints due to poorly thought out design and concepts. This in turn could lead to a greater workload for enforcement officers and permitted development right determinations.

## 6.0 IMPLICATIONS

**Policy:** The changes have no direct impact on Council Planning Policy.

**Financial:** The change in permitted development rights are likely to result in a reduction in income. The extent of the reduction cannot be calculated due to the lack of readily available analysis of householder applications.

**Personnel:** Without changes to definitions and concepts there could be an increase in complaint investigations and disputes between neighbours, thereby increasing enforcement officer workloads.

**Equal Opportunity:** None.

Author: Neil McKay, tel no. 01546 604172.

Reviewing Officer: Angus Gilmour, tel no. 01546 604288

## APPENDIX A – SPECIFIC QUESTIONS

### A1. Development Footprint

It is intended to move from a calculation involving floor area to “development footprint” in order to calculate the need for planning permission.

***Q1. Do you agree with this change from floor area to development footprint/ground area?***

**Comment:** It is considered that ‘development footprint’ rather than aggregate floor area would be simpler to calculate for prospective developers and officers. What constitutes “development footprint” however needs to be properly defined, in particular in relation to “detached” structures within the curtilage. Does it include a detached garage within 5 metres? (The definition in Article 2 is unclear). The suggested percentage of “development footprint” at 50% was considered quite high and needs to be reduced to 40% to be consistent with the other percentages. The suggested proposals could allow fairly long narrow extensions which could have amenity consequences, particularly for semi and terrace dwellings. For example, a typical semi-detached house could be provided with a 6 metre by 5 metre extension, were it to be set 1 metre in from the boundary, which could raise significant amenity issues.

### A2. Principal Elevation, Side Elevations and Rear Elevation

It is proposed to change the simple definition of what requires express planning permission from an elevation facing a road, to a “principal elevation”

The Government’s proposed approach proceeds on the basis that most houses have a “principal elevation”. This is generally defined with reference to the door which forms the main or principal entrance to the house – this is not necessarily the door most often used, but the one designed as the main formal entrance to the house – usually the “front door”. This principal elevation may not be the wall of the house fronting the street on which the house is located and may not necessarily be the wall of the house which is designed as the face of the house. In most cases the principal elevation is easily identified and from that the rear (the elevation opposite the principal elevation) and side elevations (those connecting the principal and rear elevations) are self evident.

**Comment:** Contrary to what the consultation states the current permitted development rights do not prevent development on elevations facing “roads”, they just require express planning permission in some instances.

There is total opposition to the concept of “principal elevation” (determined by the presence of the main entrance). There are lots of examples of houses where the main public elevation of the building does not include a front door. It is not uncommon to find a rear and a gable end door and no “front” door as

such. This is particularly the case where houses face a main road but have access from a minor or service road at the rear. House designs will often not include a front door facing the main road. There is a continuing need to safeguard all elevations fronting roads (unless the building was well set back ie. greater than 20 metres). In the suggested scenario household developments are likely to end up with all sorts of uncontrolled conservatories decking etc. in what are front garden situations, where their presence could be detrimental to the street scene and amenity. There is a need to retain a simple definition, which would not be so readily open to “differences in opinion” between neighbours, developers and the Planning Authority over what is the “principle definition”. The retention of elevations facing a road (as defined in the Roads (Scotland) Act) is simple and easy to understand.

### **A3. Permitted Development Rights Near Roads**

It is proposed to change the need for planning permission from within 20 metres of a “road” to within 5 metres and restrict development to below 1metre in height.

***Q3. Do you believe that issues regarding road safety are sufficiently addressed by the restrictions on PDR set out in Article 3 of the draft Householder Permitted Development Order and the height limit of 1 metre within 5 metres of a road?***

**Comment:** The existing 20 metre rule is considered overly restrictive. A restriction over development 1metre in height within 5 metres of a road, as suggested, would be more appropriate.

### **A4. Development within Curtilage of a Dwellinghouse**

It is proposed to rationalise and limit the development area within the curtilage of a dwellinghouse to a maximum of 40% or up to 60 square metres, whichever is the least.

***Q4. Do you agree with the overall limit on development of the curtilage (excluding the original dwelling) of 40%?***

***Q5. Do you agree with the additional limit on the development of rear curtilage of 40%?***

**Comment:** An overall limit of 40% excluding the original dwelling is felt reasonable given the desire to exempt more developments from the need for an application.

***Q6. Do you agree with an absolute limit of 60 square metres?***

**Comment:** An absolute limit of 60 square metres (as opposed to 30 now) is felt reasonable given the desire to exempt more developments from the need for an application.

## **A5. Designated Areas**

It is proposed to reduce the amount of permitted development rights associated with dwellinghouses in Conservation Area and those relating to listed buildings, but falls short of removing them altogether.

**Q7. Do you agree with the additional conditions and restrictions on householder PDR in conservation areas contained in the draft Householder Permitted Development Order?**

**Q8. Do you agree with the additional conditions and restrictions on householder PDR within the curtilage of listed buildings as set out in the draft householder permitted development order?**

**Comment:** It is not considered that a blanket ban on “permitted development” rights in a conservation area would be necessary and therefore welcome the additional restrictions proposed. The inclusion of gates, fences, surfaces and walls which are often of particular significance in such areas is to be welcomed.

**Q9. Should there simply be no permitted development in relation to conservation areas or the curtilage of listed buildings?**

**Comment:** It is considered that a blanket ban on “permitted development” for listed buildings or conservation areas is unnecessary as this would exclude even modest “development” from taking place, for example up to a 10 square metre extension or a structure within its curtilage of up to 4 square metres.

## **A6. World Heritage Sites**

The consultation paper seeks views regarding the reservation of Permitted Development Rights in World Heritage Sites or other such designated areas. As this does not have a material bearing on Argyll and Bute, no comments to Q10, 11 and 12 are offered.

## **A7. Ramps and Handrails**

The Scottish Government are seeking the Council’s view on how ramps and handrails are currently treated in terms of Permitted Development.

**Q13. In your experience, do planning authorities treat the addition of ramps and handrails to the exterior of houses to assist the elderly or disabled people as requiring an application for planning permission?**

**Comment:** Argyll and Bute Council considers “disabled persons” access under the existing Class 1, or as being *de minimis* if very minor works.

## **A8. Flats**

There are currently no permitted development rights associated with flatted properties, (except in relation to satellite and other antennas). The Government is seeking the Council's view on any possible extension to permitted development rights, particularly in relation to windows.

***Q14. Do respondents believe that replacement and alteration of existing windows in flats, without altering the overall size of the window opening should be permitted development?***

**Comment:** It is considered that fenestration in flats is an important issue. At the very least it would be necessary to continue to control glazing pattern, means of opening and colour to retain some cohesiveness in appearance across a building, particularly in Conservation Areas. On balance it is considered it would be difficult to frame permitted development rights if the above issue were to be included.

## **A9. Flagpoles**

The Government is interested in the Council's view to extend permitted development rights to include flagpoles.

***Q15. Do respondents believe there should be specific PDR to allow flagpoles to be erected within the curtilage of a dwellinghouse?***

**Comment:** It was not considered that there was any particular demand for domestic flagpoles, at this point in time, however, if they became in vogue there could be visual amenity issues. As such it is considered that the need for an application remains. If flagpoles did become permitted, these should be restricted to one only and should be no more than 3 metres in height.

## **A10. Classes of Householder Permitted Development Rights**

The classes in this order are structured to have specific classes of PDR for various common forms of development. So, for example, decking has its own class of PDR and cannot be carried out under the provisions of another class. Some permitted developments may involve a combination of classes, eg. where an extension to a house increases its development footprint and requires an alteration to the roof of the original dwellinghouse, then the development would have to comply with the restrictions and conditions which apply to both Class 1 and Class 2 in order to benefit from PDR.

***Q17 (Classes 1-12): Are the grant of permission and the restrictions and conditions clear?***

***Will these controls release a significant number of proposals (see paragraph 1.3) from the planning application process?***

***Will these PDR provide adequate controls on amenity?***



***Are there any changes to the controls which might mean significant further reduction in planning applications without undermining amenity?***

**Comment:** The issue relative to siting microwave antenna “to minimise its effect on the external appearance of a building” may well fail the six tests for planning permission as it is not precise. This test needs to be omitted or made precise in its definition. This also applies to when a microwave antenna is no longer required; what is meant by “reasonably practicable”.

It is considered that the increase in thresholds would exempt more proposals from the need for an application but it is difficult to quantify in terms of numbers. It is considered that amenity considerations would undoubtedly be prejudiced by the move towards “principal” elevation and that this was the most significant flaw in the suggested proposals. No additional relaxations are recommended.

**A11. Hardstandings within Dwellinghouses**

At present various forms of hard surface, eg. paving stones, tarmac or mono blocking can be carried out without permission. Some concerns have been raised about this type of un-regulated hard surfacing adding to run off from dwellings which, in times of heavy rainfall for example, can contribute to flooding and the overflowing of drainage systems.

***Q18. Do respondents agree with the addition of requirements on drainage to PDR for new and replacement hard surfaces over an area of 5 square metres between the principal elevation and the road?***

**Comment:** It is considered that controls re drainage/flooding arising from hardstandings should not be a planning issue, particularly if consideration is being given to bringing domestic sized areas under the Building Standards, which would be more appropriate. This is particularly the case if a soakaway is involved, which would require a building warrant. In such cases a soakaway would need to be 5 metres from a boundary which could cause technical problems, which should stay with Building Standards.

**All General Questions**

***Q19. Do respondents think the changes to permitted development rights as drafted will achieve the Scottish Government’s aim of removing a significant amount of householder development from the planning applications process?***

**Comment:** Difficult to conclude whether additional exemptions will be ‘significant’, as there is no ready means to analyse existing applications.

***Q20. If not, what particular alterations to the draft Householder Permitted Development Order might significantly reduce the number of householder planning applications?***



**Comment:** There are no additional controls that can reasonably be suggested that would not raise privacy, amenity, design or road safety issues.

***Q21: What effects might any suggested changes have on amenity issues?***

**Comment:** It is considered that amenity issues would arise as a result of the “principal” elevation approach (uncontrolled extensions at the front) and the additional scale of extensions to the rear of attached properties (increased percentage/area), particularly when it comes to extensions within 1 metre of the boundary.

***Q22: Do respondents believe that the provisions of the draft Householder Permitted Development Order pay sufficient regard to the impact on local amenity?***

**Comment:** The introduction of a “principal elevation” in particular could lead to all forms of dispute between neighbours, developers and planning authorities, which could have significant effects on amenity. In this regard, rather than reducing local authorities workloads and making it easier for developers, there could be significant increases in complaints and time given over to poor definitions and concepts. There is a need to keep definitions simple, primarily “elevations fronting a road”. The potential scale of development within 1 metre of the boundary could also result in a decrease on amenity.

***Q23: If not, what particular alterations to the draft Householder Permitted Development Order might address some or all of these issues?***

**Comment:** It is considered that a length limit on rear extension relative to semi-detached and terraced properties would be helpful to limit impacts on attached houses and resulting amenity.

***Q24: What particular issues would you like to see addressed in the guidance accompanying the changes to householder permitted development rights?***

**Comment:** It is considered that a national advice note giving examples, drawings and clarifying interpretation would avoid inconsistencies and aid all parties.

The consultation raised a series of questions on Regulatory Impact Assessment and Equalities Impact Assessment but it was considered that these raised no particular issues.