

Final Business and Regulatory Impact Assessment

Title of Proposal

Permitted Development Rights Review – Phase 3

Purpose and intended effect

Permitted development rights (“PDR”) refer to those forms of development which are granted planning permission through legislation, meaning they can be carried out without a planning application having to be submitted to (and approved by) the local authority. Specifically, PDR are contained within the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (“the GPDO”).

The Scottish Government is currently undertaking a review of PDR in Scotland. This review involves taking forward new and extended PDR for a wide range of development types. Phase 3 of the review is focussed on addressing the climate and cost of living crises. In particular, the measures are intended to help support:

- deployment of domestic and non-domestic renewables equipment, such as solar panels, wind turbines and heat pumps.
- alteration/replacement of windows to improve energy efficiency.
- roll-out of electricity network infrastructure.

The measures have been informed by a public consultation carried out in summer 2023 (details below) as well as a sustainability appraisal incorporating Strategic Environmental Assessment (SEA) requirements, which was subject to public consultation in November 2019. The sustainability appraisal and draft SEA Post Adoption Statement have been updated alongside each phase of the review..

By removing the need to seek planning permission before carrying out specified forms of development, PDR can help to provide greater certainty for developers and save time and money associated with preparing a planning application. In doing so, this can help to promote wider Scottish Government objectives – including those related to the climate change and cost of living crises.

Consultation

Within Government

The measures have been informed by engagement with Scottish Government officials in:

- The Directorate for Energy and Climate Change – including energy consents unit and policy for heat in buildings, onshore electricity.
- The Directorate for Environment and Forestry – including policy for circular economy, the deposit return scheme and environmental quality.
- The Directorate for Culture and Major Events – policy for the historic environment.
- The Directorate for Safer Communities – policy for firearms.

There was also engagement with Historic Environment Scotland, Scottish Environment Protection Agency, NatureScot, several planning authorities, Zero Waste Scotland and UK Government Department for Energy Security and Net Zero.

Public Consultation

In November 2019 we consulted on a proposed work programme for reviewing and extending PDR in Scotland along with a Sustainability Appraisal. The proposals regarding certain aspects of renewables technology, flues, alteration/replacement windows, electricity undertakings,

reverse vending machines, shooting ranges did not form part of the original PDR work programme. The Sustainability Appraisal has been updated to reflect previous changes to the proposals since the original appraisal, and an update to the Sustainability Appraisal to cover the above-mentioned proposals accompanies the Phase 3 consultation.

A three month public consultation on the Phase 3 proposals was carried out between May and August 2023, during which the public and other stakeholders were able to comment on the measures. The Phase 3 package was broadly well-received with support expressed for the majority of proposals; many respondents made specific comments on points of detail – including where they agreed with the proposals in-principle. An independent analysis of the consultation responses has been carried out, it contains a detailed summary of respondents' views on each of the Phase 3 consultation proposals.

Business

Engagement has been undertaken with businesses, including solar energy developers, electricity infrastructure providers (Scottish and Southern Electricity Networks and SP Energy Networks) and representative bodies such as Scottish Renewables, Solar Energy Scotland and the Scottish Grocers' Federation.

Refinement of measures

In light of the consultation feedback and stakeholder engagement, we have made some amendments to the final Phase 3 package. The substantive departures from the consultation proposals are set out in the table below.

Change	Summary Reason
Not removing the restriction on the existing PDR for domestic air source heat pumps that sets a one-per-building limit.	Respondents expressed concern about potential cumulative noise impacts. Additionally, independent research published after the consultation closed ¹ highlighted some issues with the noise assessment methodology within MCS-020. It is considered that amending the PDR in advance of MCS-020 being updated would be premature. However, Scottish Government remains committed to the principle of amending PDR to support the deployment of ASHPs.
Not removing or amending PDR for domestic flues for both wood burning stoves and biomass boilers.	Consultation responses did not indicate suitable changes to the PDR to address nuisance, given the variety of circumstances that might arise in individual cases. There were various concerns about a wide ranging removal of these particular PDR, especially regarding the potential impact on rural communities where options for heating may be more limited. Further work is underway to look at how more geographically targeted changes to these PDR could help address the issues of nuisance and air quality.

¹ Independent review of air source heat pump noise emissions, permitted development guidance and regulations (30 Nov 2023): <https://www.gov.uk/government/publications/air-source-heat-pump-noise-emissions-planning-guidance-and-regulations>

<p>Not introducing new PDR for air source heat pumps attached to non-domestic buildings.</p>	<p>While many respondents agreed with the proposals, concerns were raised about noise implications – particularly given that MCS-020 standards do not apply to non-domestic installations. Further consideration will be given to this issue, taking account of SG’s ambitions for deployment of ASHPs.</p>
<p>Not taking forward removal of 1,000m length restriction that applies to existing PDR for communication lines.</p>	<p>Concerns were raised about potential environmental impacts linked to the deployment of longer communications lines. Communications infrastructure is often embedded into overhead electric lines and, noting the limited requirement for standalone communications lines, we are also unsure about the extent to which the consultation proposal would meaningfully support the overall policy objective of upgrading and expanding our electricity networks.</p>
<p>Not taking forward new PDR for on-street reverse vending machines.</p>	<p>Shortly after the Phase 3 consultation was published, it was announced that the launch of Scotland’s DRS would be delayed until October 2025 at the earliest. It is therefore considered that introducing additional PDR would be premature. As the policy and legal framework for a revised DRS is developed, further consideration will be given to the case for amending PDR for RVM.</p>
<p>Not excluding shooting ranges from the existing general PDR (class 15) permitting temporary uses of land.</p>	<p>The consultation responses indicated that excluding temporary shooting ranges from the 28 day rule on a blanket basis could have the unintended consequence of bringing a variety of routine, small-scale works into the scope of the planning application process. This is not considered proportionate, especially given that shooting is subject to separate licensing requirements – and taking account of other temporary activities that can take place under the 28 day rule or which do not constitute development (for planning purposes) at all. Although the matter will be kept under review, it was decided not to amend the 28 day rule as regards shooting at this time.</p>

Options

Option 1 - Do Nothing

No changes to current PDR. Unless development is covered by PDR, an application for planning permission would continue to be required in those areas where the extension of current PDR or the introduction of new PDR are involved. Doing nothing would have no effects on businesses/ developers in relation to those areas where removal of PDR is being considered, namely for certain domestic flues and temporary firing ranges.

Option 2 – Measures set out in Phase 3 consultation

Through the Phase 3 consultation, views were sought on the following potential measures:

Domestic Renewable Energy Equipment

- Extend the existing PDR for:
 - solar panels on dwellings (dwellinghouses and buildings containing flats) on outbuildings within the curtilage of a dwellinghouse, and to permit some development in conservation areas.
 - domestic air source heat pumps (“ASHP”) on buildings containing flats and reduce the limitations on ASHP on dwellings in conservation areas.
 - a free-standing domestic wind turbine within the curtilage of a dwelling (and simplify the terms of these PDR).
- Clarify that PDR for ground and water source heat pumps includes the associated underground pipework and any above-ground connections to the pump.
- Introduce new PDR for the installation of a wind turbine on a dwellinghouse (i.e. would not apply to buildings containing flats or buildings within the curtilage of a dwellinghouse).
- Remove PDR for domestic flues for wood burning stoves (including wood burners and log burners) and biomass boilers.

Non-Domestic Renewable Energy Equipment

- Relax the limitations on the current PDR for:
 - solar panels on non-domestic buildings.
 - solar canopies in qualifying parking areas (removing the requirement that the primary purpose of such canopies is to power electric vehicle charging).
- Introduce new PDR for free-standing solar panels within the curtilage of a non-domestic building.
- Introduce new PDR for ASHP on non-domestic buildings.
- Clarify that PDR for ground and water source heat pumps includes the associated underground pipework and any above-ground connections to the pump, and remove the limitation on maximum heat output.

Alteration or replacement Windows

- Extend PDR for alteration or replacement windows in domestic buildings located in conservation areas.
- Align non-domestic buildings with domestic buildings, as regards PDR for alteration or replacement windows

Electricity Network Infrastructure

- Relax limitations/ conditions in or extend the current PDR for electricity undertakings regarding:
 - clarification of which parties PDR apply to
 - substations

- electronic communication lines
- site investigation works
- gates, fences, walls and other enclosures
- new buildings for plant and machinery on operational land

Reverse Vending Machines

- Extending PDR to allow reverse vending machines to be installed on the road in certain circumstances.
- Remove the current restriction that a reverse vending machine cannot be installed facing onto and within 5m of a road.

Temporary Use of Land:

- Exclude the use of land as a shooting range comprising fixed targets associated with firearms from the scope of the general PDR for temporary uses of land.

Option 2A – Phase 3 measures refined following consultation

In light of the feedback received through the public consultation and further stakeholder engagement, the final Phase 3 measures will:

Domestic Renewables

- Extend existing PDR for solar panels so these can be installed on the rear elevation of dwellings (houses, flats and buildings containing flats) in conservation areas.
- Introduce new PDR for solar panels attached to domestic outbuildings.
- Simplify existing PDR for free-standing domestic wind turbine within the curtilage of a dwelling.
- Introduce new PDR for the installation of a wind turbine attached to a detached dwellinghouse.
- Clarify that PDR for domestic ground and water source heat pumps includes the associated underground pipework and any above-ground connections to the pump.

Non-Domestic Renewables

- Relax the power output restriction on solar panels attached to non-domestic buildings and simplify the limitations regarding their placement.
- Introduce new PDR for free-standing solar panels within the curtilage of non-domestic buildings.
- Clarify that PDR for non-domestic ground and water source heat pumps includes the associated underground pipework and any above-ground connections to the pump – and remove the limitation on maximum heat output.
- Relax certain restrictions on PDR for solar canopies in carparks, including removal of requirement that these must be primarily for purpose of powering electric vehicle chargers.

Window Alteration or Replacement

- Introduce new PDR for the alteration or replacement of windows in domestic and non-domestic buildings, with restrictions in conservation areas depending on where the window is located on a property.

Electricity Network Infrastructure

- Amend class 40 of the GPDO to clarify which license holders the PDR apply to and extend the range of developments they cover.

Sectors and groups affected

The effect of the measures is to allow specified development to be carried out without a planning application having to be submitted to and approved by the local authority. Key parties affected are:

- Developers, operators and landowners able to carry out development without preparing a planning application;
- Planning authorities no longer having to handle and determine planning applications for relevant development types; and
- Members of the public potentially affected by developments carried out under PDR (impacts, whether positive or negative, will depend on the nature of development).

Where the measures involve removal or restriction of PDR, then the developments involved would require a planning application, and the effect would be the opposite of the above – although the same parties would be affected. Where changes include prior notification/ prior approval arrangements, developers will need to seek a planning authority's view on the need for prior approval of aspects of proposals, and potentially their approval of such matters. This is less onerous than an application for planning permission and attracts a standard fee.

Benefits

Granting planning permission through new or extended PDR can help to provide greater certainty for developers. Such measures can avoid developers having to go to the time and expense of submitting a planning application. Financial savings (per development) will be associated with the lack of an application fee and the costs of preparing associated documentation, drawings and reports. Other than application fees (which are set by national legislation), these costs are development - and context - specific and so cannot be robustly quantified. Examples of potential fees involved, as of 1 April 2022², include:

- Householder development: £300
- Erection, alteration or replacement of plant or machinery: £500 per 0.1ha of site area for first 5ha, thereafter £250 per 0.1ha up to maximum of £150,000
- Construction of buildings and structures: £300 for no new floor space or up to 50 square metres
- Prior approval: £100

In addition to savings linked to lack of planning application fee and cost of preparing planning application documents, there would also be savings associated with the time taken to obtain planning permission. Notwithstanding time preparing application materials, planning performance statistics indicate that in 2021-22 the average time taken to determine applications for, for example, local householder development was 8.7 weeks. The figure for local developments as a whole was 10.8 weeks, with Business and Industry at 11.7 weeks, Electricity Generation at 17.2 weeks and Other Developments at 12.2 weeks. Although we do not have the evidence to quantify time-based savings, the above planning application statistics indicate they could be substantial.

The overall extent of savings to business from extended or new PDR will ultimately depend on how many developments come forward under PDR that would previously have been subject to a planning application. This is difficult to forecast, not least because planning application data held centrally is not broken down with sufficient 'granularity' to indicate how many applications there have previously been for the types of development which will be covered by PDR as a result of the Phase 3 measures.

² See the Town and Country Planning (Fees for Applications) (Scotland) Regulations 2022- which do include limited powers for fees to be waived in certain cases.

By removing more development proposals from the planning application process, the Phase 3 measures will also reduce administrative burdens on planning authorities – allowing them to focus resources elsewhere, including the determination of major planning applications. The measures are intended to, amongst other things:

- Support the adoption of renewables technology and replacement of windows, in relation to domestic and non-domestic buildings, to help address climate change and the cost-of-living crisis.
- Support the rollout of electricity network infrastructure, to support the move towards low carbon and zero emissions technology and so help to address climate change.

To this extent, there will be benefits to the general public associated with health, amenity and the threats associated with climate change. PDR for these types of development are likely to incentivise their deployment, thereby generating economic benefits for the relevant renewables sectors.

Costs

The measures will result in savings for both applicants (who would no longer have to pay to prepare applications for planning permission) and planning authorities (who would no longer have to determine said applications). However, initially, savings from any changes could be partially offset by some indirect costs to business in ascertaining whether or not development proposals are covered by PDR, and in complying with planning enforcement were any work inadvertently carried out which subsequently transpires not to benefit from PDR. However, such costs are anticipated to be minimal and short-term and would naturally dissipate as parties become familiar with the changes.

In the case of PDR for solar canopies and window replacement, where prior notification/ prior approval applies, there will be costs associated with putting together a notification and paying a fee (currently £100). This may offset in part both the savings from not needing to make an application for planning permission, and the reduction in casework for planning authorities.

The non-financial costs associated with projects carried out under PDR would depend on the specific nature and characteristics of the works (e.g. installation of renewables technology) that come forward. There may be localised impacts on amenity (e.g. visual appearance or noise), impacts on the historic environment, or wider environmental impacts where PDR are more extensive (e.g. electricity network infrastructure). The Phase 3 consultation sought views on the extent of such impacts, and whether they could be controlled through conditions/limitations placed on any new or amended PDR, or potentially other, existing regimes where appropriate. As set out above, the proposals have been refined (or in some cases not taken forward) in response to the feedback received. Authorities also retain the option of promoting article 4 directions where the potential localised effects of PDR are considered to be particularly problematic.

Scottish Firms Impact Test

We had some initial engagement with firms/ organisations about our proposals; further discussions took place during the consultation period.

Competition Assessment

We do not consider that the proposed Phase 3 measures would negatively impact on competition. It is considered that the measures would not limit the number or range of suppliers, the ability of suppliers to compete, suppliers' incentives to compete or the choices and information available to consumers.

Consumer Assessment

We do not consider that the proposed Phase 3 measures would negatively impact on consumers. It is considered that the measures would not affect the quality, availability or price of any goods or services in a market, affect the essential services market, such as energy or water, involve storage or increased use of consumer data, increase opportunities for unscrupulous suppliers to target consumers, impact the information available to consumers on either goods or services or their rights in relation to these, or affect routes for consumers to seek advice or raise complaints on consumer issues.

Test run of business forms

No new forms to be introduced.

Digital Impact Test

It is considered that the proposed measures would not be impacted by changes to processes brought about by digital transformation. Regulation of the technology used in the developments is not a matter for planning.

Legal Aid Impact Test

It is considered that the proposed changes would not give rise to increased use of legal processes or create new rights or responsibilities which would impact on the legal aid fund.

Enforcement, sanctions and monitoring

Planning authorities have a range of enforcement tools to deal with breaches of planning control. See [Planning Circular 10/2009](#) for further information.

Summary and recommendation

Summary costs and benefits table

Option	Total benefit per annum	Total cost per annum
Option 1 – Do Nothing	<p>Current situation is maintained which is understood by applicants, authorities and third parties.</p> <p>In the case of developments where consideration was given to removing PDR, they would not incur the costs associated with making an application.</p>	<p>Applications would continue to be required for relevant development types, with associated costs and timescales.</p> <p>Not progressing the Phase 3 measures could potentially slow the rollout of renewable energy technology, energy efficiency measures and electricity infrastructure.</p> <p>Costs regarding air quality and amenity impacts with flues and amenity issues with temporary shooting ranges comprising fixed targets would not reduce.</p>

<p>Option 2 – Measures set out in Phase 3 consultation</p>	<p>Renewables equipment and window alteration or replacement.</p>	<p>New/extended PDR would reduce need for planning applications, leading to financial and time savings for applicants. However, we do not have data indicating how many planning applications the proposed measures would remove from the system or how many developments would be progressed as a result.</p> <p>The proposed measures would support roll-out of renewables technology and alteration or replacement of windows helping to reduce emissions and to tackle climate change, as well as reducing costs for individuals, families and businesses.</p> <p>The potential to incentivise the deployment of renewables could help foster green growth and green jobs.</p> <p>Fewer applications would reduce burdens on planning authorities.</p>	<p>There could be localised amenity impacts, particularly due to the visual effects of infrastructure located in conservation areas or other locations, where relaxations of restrictions are involved. Other consent regimes, such as listed building consent, will control some of this, and Article 4 directions could be used to address this where necessary.</p> <p>Noise issues and visual impacts may be an issue with certain technologies, however, the conditions and limitations on PDR are designed to minimise these. Noise nuisance has a separate control regime.</p> <p>Removal of PDR for domestic flues for certain technologies would mean more applications, with related costs, though these are likely to only partially offset the savings associated with the package as a whole.</p>
	<p>Electricity Network Infrastructure</p>	<p>Faster rollout out of infrastructure needed to support the changes to energy generation to tackle climate change.</p> <p>Reduced costs for developers in relation to making applications for planning permission and prior approval.</p> <p>Fewer applications would reduce burdens on planning authorities.</p>	<p>Visual amenity or environmental impacts where PDR allow more extensive or larger scale development, or where controls on siting and design are relaxed.</p> <p>These PDR are subject to separate requirements (e.g. environmental impact assessment, or, in relation to European Sites, appropriate assessment) where the criteria for such assessment is triggered. Other controls apply in Sites of Special Scientific Interest. PDR can also be removed locally using an article 4 direction.</p>

	Reverse Vending Machines (RVM)	<p>Help support the deposit return scheme and the reduction of waste, and allow easier rollout of RVM by retailers and other businesses, with removal of costs associated with planning applications.</p> <p>Fewer applications would reduce burdens on planning authorities.</p>	<p>RVM have potential to create obstructions which could adversely affect particular groups. Consultation seeks views on whether such impacts can be adequately controlled through separate consenting under Roads legislation and/or conditions attached to any new PDR.</p>
	Temporary shooting ranges	<p>Reduce the amenity impacts associated with such activity in potentially inappropriate locations (given the wide range of locations allowed for by the general PDR for temporary uses)</p>	<p>Increased costs for developers associated with making planning applications for such development.</p> <p>More applications would increase burdens on planning authorities.</p> <p>Numbers of such developments thought to be relatively small, especially compared to the wider package of extensions to PDR.</p>
Option 2A – Phase 3 measures refined in light of consultation responses	Renewables equipment and window alteration or replacement.	As per option 2	<p>As per option 2.</p> <p>As regards PDR for solar canopies, new cumulative limits on related battery storage equipment will limit loss of parking.</p> <p>Some savings on reductions in the need for planning applications will be offset by new prior notification/prior approval procedures.</p>
	Electricity Network Infrastructure	As per option 2	<p>As per option 2.</p> <p>Refinement of the measures will help address potential visual and amenity impacts.</p>

Declaration and publication

I have read the partial Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact will be assessed with the support of businesses in Scotland.

Signed: Joe FitzPatrick MSP

Date: 20 March 2024

Minister's name: Joe FitzPatrick MSP

Minister's title: Minister for Local Government Empowerment and Planning

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