

ANGUS COUNCIL

INFRASTRUCTURE SERVICES COMMITTEE
DEVELOPMENT STANDARDS COMMITTEE

3 MARCH 2009
10 MARCH 2009

**SUBJECT: IMPLEMENTING THE PLANNING ETC. (SCOTLAND) ACT 2006
HOUSEHOLDER PERMITTED DEVELOPMENT RIGHTS – CONSULTATION PAPER**

REPORT BY DIRECTOR OF INFRASTRUCTURE SERVICES

Abstract: The Scottish Government has published a Consultation Paper on the Draft Householder Permitted Development Order as part of as part of the Government's proposals for modernisation of the planning system. When finalised the Order will replace the existing permitted development rights for householder developments contained in the Town and Country Planning (General Permitted Development) (Scotland) Order 1992. This Order removes the need to apply for planning permission for certain classes of development provided that it complies with certain restrictions and conditions set out in the order. This report outlines the draft Householder Permitted Development Order and suggests a response to the Consultation Paper.

1 RECOMMENDATION

- 1.1 It is recommended that the Infrastructure Services Committee:-
1. note the proposals put forward by the Scottish Government in respect of draft Householder Permitted Development Order (dHPDO);
 2. agree that the suggested response set out in Appendix 1 of this report be submitted to the Scottish Government in response to their Consultation Paper.
- 1.2 It is recommended that the Development Standards Committee note the contents of this report.

2 INTRODUCTION

- 2.1 The Town and Country Planning (Scotland) Act 1997 contains powers for the Scottish Government to make a development order which grants planning permission for certain classes of development. The granting of planning permission in this way (often referred to as permitted development rights - PDR) removes the need to apply for planning permission provided that the development complies with certain restrictions and conditions set out in the order.
- 2.2 Previous research commissioned by the Scottish Government in 2006 suggested changes to permitted development would result in some 38% of householder applications being removed from the planning application process. It was acknowledged in the research findings that there would likely be wide variation between planning authorities around such reductions and the changes to permitted development outlined in the current draft order have been refined from the previous research. As such it is not possible to attach an accurate figure to the likely level of reduction in applications which will result.

- 2.3 The research commissioned by the Scottish Government in 2006 confirmed that the annual rate of approval of householder consents has remained constant at around 97%. Householder developments which proceed on the basis of being permitted development are generally small-scale and uncontentious, but can on occasion give rise to complaints from neighbours. It is considered that some of the developments that require an application for planning permission currently may have no significant impacts however a considerable amount of time and resource is required by the applicant and by the planning authority to, respectively, prepare and process such applications.
- 2.4 As part of the Government's proposals for modernisation of the planning system, it is intended to remove a significant number of minor householder planning applications from the planning system. This change is intended to allow individuals more freedom to develop their property and planning authorities to allocate resources to more significant developments, while retaining an appropriate level of planning control.
- 2.5 The consultation paper contains proposals to extend PDR for householder developments and includes a draft Householder Permitted Development Order (dHPDO). It is intended that a finalised version of this order will eventually replace the existing PDR for householder developments contained in the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended (the GPDO).
- 2.6 A copy of the Consultation Paper on the draft Householder Permitted Development Order is available in the Members' Lounge or can be viewed at <http://www.scotland.gov.uk/Publications/2008/12/02145212/0>. The Consultation Paper seeks views on 27 specific questions and suggested responses are provided at Appendix 1.

3 DRAFT HOUSEHOLDER PERMITTED DEVELOPMENT ORDER

- 3.1 It is proposed 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 It is also proposed to introduce the following changes to standard conditions and restrictions to prevent overdevelopment a result of the changes to the level of development allowed:

- 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 FINANCIAL IMPLICATIONS

4.1 There are no financial implications arising directly as a result of the recommendations contained in this report.

5 HUMAN RIGHTS IMPLICATIONS

5.1 There are no human rights implications arising from this report.

6 EQUALITIES IMPLICATIONS

6.1 The issues dealt with in this report have been the subject of consideration from an equalities perspective (as required by legislation). An equalities impact assessment is not required.

7 CONSULTATION

7.1 The Chief Executive, Director of Corporate Services, Head of Law & Administration and Head of Finance have been consulted in the preparation of this report.

8 CONCLUSION

8.1 As part of the proposals for modernisation of the planning system the Scottish Government has published a draft Order which extends the permitted development rights for householder developments. The changes introduced by the Order will affect the level of development which can be carried out without the need to apply for planning permission and are intended to remove a significant number of minor householder planning applications from the planning system. The current Consultation Paper provides an important opportunity to express the views of Angus Council on the proposed changes in respect of Householder Permitted development Rights.

ERIC S. LOWSON
DIRECTOR OF INFRASTRUCTURE SERVICES

NOTE

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

P&T/DS/IAL
5 February 2009

Eric S. Lawson
Director of Infrastructure Services

Appendix 1

HOUSEHOLDER PERMITTED DEVELOPMENT RIGHTS CONSULTATION PAPER**SUGGESTED RESPONSE****Q1. Do you agree with this change from floor area to development footprint/ground area?**

Response: The removal of reference to limits on floor area or calculation of the overall floor area of the house should serve to simplify the process of assessing whether the area of an extension proposed is permitted development.

Q2. Do you agree with the new approach to principal, side and rear elevations?

Response: It is agreed that the current 20 metre rule unduly restricts development within other areas of the curtilage of houses i.e. rear gardens which have no adverse impact on the street scene and would be permitted development in other circumstances. The protection of the principal elevation / street scene is considered to be more appropriate for use as a basis to establish permitted development rights rather than the 20 metre rule.

It is noted that the definition of principal elevation given in the Order at 2. (1) is the elevation used as the principal means of access to the dwellinghouse. The consultation paper confirms that the principal elevation is generally defined with reference to the door which forms the main or principal elevation to the house but that this is not necessarily the one most often used. While it is agreed that in most cases the principal elevation will be readily identifiable from the rear / side elevations the definition given could be considered to refer to the elevation with the door most often used as the means of access to the house. It is important that there is clarity over the definition used in the interpretation of the Order.

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?

Response: It is considered that the restriction of development to a height of 1m within 5m of a road provided it is no nearer the road than the original house is acceptable. The restriction within Article 3 will serve to address potential road safety issues however in practice may require consultation with the Roads Authority in each case to establish whether any obstruction created would be likely to cause a road safety issue and thereby not qualify as permitted development.

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

Response: Yes. There is no objection to the proposed increase from the previous limit of 30% of the curtilage to an overall limit of 40%.

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

Response: Yes. An additional limit on the development of the rear curtilage to 40% is considered to be important to ensure that an acceptable area of rear garden ground is retained.

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

Response: The principle of an absolute limit which overrides the area of curtilage which can be developed is considered to be important to address the situation where individual houses with extensive curtilages could carry out very substantial developments. The suggested figure of 60 square metres is not disputed however it is noted that this could be achieved relatively easily under current PDR by the erection of small/medium sized extension and a similarly sized outbuilding such as a single garage more than 5m from the house.

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

Response: It is considered that a reduction in PDR is a positive step to attempt to safeguard the character / appearance of conservation areas.

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?

Response: It is considered that a reduction in PDR is a positive step to attempt to safeguard the character or appearance of listed buildings.

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

Response: Relatively minor changes to buildings in conservation areas or to listed buildings have potential to significantly affect built heritage. The removal of all PD rights would simplify procedures and is not necessarily opposed but it is recognized that not all conservation areas are designated as such on the basis of the built heritage alone and as such use of Article 4 Directions allows for more considered withdrawal of PD rights as considered appropriate to individual circumstances.

Q10. Should additional statutory restrictions be placed on householder PDR within World Heritage Sites?

Response: It is agreed that there would be merit in restricting PDR in World Heritage Sites designated for cultural grounds (including built heritage) where there may be potential effects on the reason for designation by allowing full PDR.

Q11. If so, what level of control should be applied (e.g. similar to that for conservation areas or a total restriction)?

Response: It is considered that control on a similar basis to Conservation Areas would be appropriate in most cases.

Q12. Do you have any comments on the extent of designated areas where restrictions will apply?

Response: No comment.

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?

Response: Ramps and handrails have been treated as de minimus where the proposal has had no material impact on the external appearance of the building however they are assessed in terms of the current GPDO.

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?

Response: Yes. Unless the building is in a conservation area which has an Article 4 Direction it is considered that replacement of windows should be permitted development.

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

Response: Yes. It would be useful to provide specific PDR in relation to the erection of flagpoles.

Q16. If so, what controls should there be on the height of flagpoles and on their location, with particular regard to designated areas?

Response: The height of the flagpole should be restricted so that it is no higher than any part of a building which can be erected under PDR and subject to same controls proposed as

part of the draft Order in respect of principal / side elevations and distance from property boundaries.

Questions on Classes – Q17 (Classes 1-12)

Are the grant of permission and the restrictions and conditions clear?

Response: There is greater clarity within the Order, including restrictions and conditions than the current GDPO.

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

Response: The controls will result in a significant number of minor developments no longer requiring planning permission however it is noted that proposed changes will also result in minor developments which are currently permitted development requiring planning permission. Until the Order comes into use it is difficult to predict whether the levels anticipated in the research commissioned by the Scottish Government will be achieved.

Will these PDR provide adequate controls on amenity?

Response: The PDR are considered to provide for adequate control to protect the general amenity of areas. It is noted that the PDR provide scope for extensions greater than the current maximum of 4 metres in height providing that this is not within 2 metres of a boundary and that no control is made regarding the placement of windows facing towards boundaries. As such there is potential for a degree of direct overlooking of neighbouring properties to occur which in certain circumstances may have an impact on amenity.

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

Response: Extending PDR where appropriate to include certain types of flats or building containing flats.

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?

Response: No. It is considered that appropriate means to regulate drainage for hard surfaces should be through Building Standards and that a reduction in the exempt area threshold as being considered by the Building Standards Division would be the appropriate change to deal with this matter.

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 application process?

Response: Refer to responses on Q17.

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

Response: Refer to responses on Q17.

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

Response: Refer to responses on Q17

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

Response: Refer to responses on Q17

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

Response: Consideration of additional controls to address potential overlooking.

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

Response: No additional issues which have not been identified in either the draft Order or referred to in this response.

Q25. Are there any costs or benefits not identified in the draft RIA?

Response: No.

Q26. If so, do you have any information or can you suggest sources of relevant information on these costs and/ or benefits?

Response: Not applicable.

Q27. Are there any potential impacts on particular societal groups that we should be aware of in finalising the order?

Response: No.