

WEST DUNBARTONSHIRE COUNCIL

Report by the Executive Director of Housing, Environmental and Economic Development

Planning Committee: 11th January 2011

**Subject: Scottish Government Consultation on amendments
to Householder Permitted Development Rights.**

1. Purpose

- 1.1** The Committee is requested to consider this consultation paper and to agree a response.

2. Background

- 2.1** Planning permission for many minor types of development is granted by a statutory instrument of the Scottish Government, meaning that householders and developers do not need to apply to the Council for planning permission. Such permission is known as 'permitted development', and is granted by virtue of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended).
- 2.2** With regard to householder development, the Scottish Government believes that the 1992 Order is too restrictive, with many minor and uncontroversial proposals requiring applications for planning permission. For example, the current regulations require an application for minor extensions and sheds whenever a property backs onto a road or path, and floor area limits mean that permission is required for larger extensions even where sites are large enough to accommodate these. The vast majority of householder planning applications are approved (approximately 97%), and the Scottish Government therefore considers that the permitted development rights can be extended so that a higher proportion of householder development can be carried out without the need to apply for planning permission. It is hoped that this will free up planning authority resources to deal with more significant developments. Additionally, the existing rules are seen as being complex and difficult to understand, and since the Order was made in 1992 it has been amended many times making it difficult for householders to understand what the current regulations are.
- 2.3** This present consultation follows on from a previous consultation on the same subject which was carried out in 2008-09. The Council's response to that consultation was agreed by the Planning Committee on 3 March 2009. The responses to that consultation raised significant concerns about what was then proposed, and the current consultation is on a revised proposal which seeks to address those concerns.

3. Main Issues

- 3.1** The Scottish Government therefore proposes major changes to the classes of permitted development applicable to householder development, and to this end it has produced a draft order and guidance circular for comment. The purpose of this consultation is to seek views on these proposals. The consultation paper contains 17 questions on which the Council's views are sought. The recommended responses are attached in Appendix A. The main issues considered are as follows.

The "Principal Elevation"

- 3.2** The current regulations require a planning application for most developments which are nearer than the closest part of the original house to a road which bounds the curtilage of that house. This has the effect of requiring permission for almost any extension or shed in the back garden of properties with a road or path at the back. It is proposed to replace this with a requirement for an application where any part of the development would be in front of the "principal elevation" or side elevation where that elevation fronts a road. This would allow rear extensions which front a road, although there are concerns about how this will be applied to houses where the "principal elevation" does not face the street in the conventional manner. There are also concerns that the definition of "principal elevation" ("the elevation of the original dwellinghouse which by virtue of its design or setting is defined as the principal elevation") is circular and will lead to disputes.

Curtilage Development Limits

- 3.3** Another key change is that the existing floorspace limits and curtilage development limits will be scrapped. The existing floorspace limits vary from 16m² to 30m² depending on the type and size of the house, while the total area of extensions and outbuildings cannot exceed 30% of the original curtilage area. The Scottish Government proposes to remove the limit on footprint altogether, and to change the curtilage development limit to 50% of either the "front curtilage" or the "rear curtilage". The definitions of the front and rear curtilages relate to the principal elevation discussed above, and are therefore somewhat arbitrary, but overall it is anticipated that this will allow larger extensions and outbuildings to be built without needing planning permission.

Extensions to Houses

- 3.4** Although the present regulations do not specifically exclude two storey extensions, the cumulative effect of various height and floorspace restrictions is such that in almost every situation this will require a planning application. It is proposed to introduce a specific class of permitted development allowing two storey extensions of unlimited size, provided that no part of it would be within 10m of the site

boundary. In effect this would only apply to the very largest houses with extremely large gardens, but in those situations it would allow very large extensions to be built, potentially even at the front of the house.

The “1 Metre Bubble”

- 3.5** The current regulations allow external alterations which do not extend the building (e.g. elevational alterations) and roof alterations which do not project more than 10cm or materially affect the appearance of the roof (e.g. rooflights). There are also specific classes allowing satellite dishes and solar panels. It is proposed to replace these with a new rule allowing any development which does not increase the internal volume of the house and which does not project more than 1m from any existing wall or roof. This is described as a “1m bubble” around the house within which alterations are allowed, and is primarily intended to simplify the rules and to allow satellite dishes. However the proposals would also allow significant alterations to roofs, such as altering the pitch/shape of the roof and adding very large or bulky rooflights to the front elevation which could have an impact on the amenity of the area.

Conservation Areas

- 3.6** At present the rules for conservation areas are somewhat more restrictive than for other locations, but it is now proposed to tighten these controls further so that almost all developments in such areas would require planning permission. Exceptions would be very small extensions (up to 16m²), outbuildings and decking (up to 4m²), and walls/fences. This would significantly increase controls over development in conservation areas, though there are legal questions about how the changes would affect existing Article 4 Directions (which remove certain permitted development rights in respect of specific locations).

Flats

- 3.7** At present flats do not have any permitted development rights other than for walls/fences and for satellite dishes (the rules in relation to which are difficult to enforce). This leads to a large number of applications for minor development like driveways, garden sheds, decking, patio doors and disabled access ramps. It is proposed to give flats specific permitted development rights similar to the “1m bubble” (but excluding elevational alterations). This would remove restrictions on satellite dishes and roof alterations, but would not allow any of the other types of development mentioned above. The Scottish Government has also asked for views on altering the rules for walls/fences to bring these into line with the new proposals for houses, which would be a logical step.

4. People Implications

- 4.1** The Scottish Government envisages that the proposals will lead to a reduction in the number of householder planning applications, and that

this will free up staff to concentrate on more major and complex applications. However it is envisaged that the number of enquiries to confirm whether planning permission is required will increase and subsequent applications for certificates of lawfulness.

5. Financial Implications

- 5.1** The Scottish Government estimates that the proposals will lead to a 20% drop in the number of householder planning applications. The fee for householder applications is usually £160 (though in certain circumstances there is no fee), and in 2009-10 West Dunbartonshire received 151 such applications (this number being lower than previous years due to the economic situation). Therefore, this estimate would equate to a loss in fee income of up to £4,800 at current application levels. This is a relatively small percentage of the Planning Service's budget, and it is anticipated that it will be partially offset by fee income from an increased number of applications for certificates of lawfulness. Additionally, as reported to the Planning Committee on 7 September 2010, the Scottish Government is also currently undertaking a wider review of the resourcing of the planning system which may involve a general increase in fee levels.

6. Risk Analysis

- 6.1** It is considered that some of the proposed new rules, particularly in relation to the concept of the "principal elevation" are somewhat vaguely defined and if this is not properly addressed, there is a small risk that this may result in legal disputes.

7. Equalities Impact

- 7.1** There are no equalities issues.

8. Conclusion and Recommendations

- 8.1** The proposed amendments to householder permitted development rights will increase the proportion of householder development which can be carried out without the need for planning permission. However, some of the details of what is proposed are considered to be poorly defined or to require amendment in order to safeguard amenity and this has been outlined in our response to the consultation paper.
- 8.2** It is recommended that the Committee notes the content of this report and agrees that Appendix A forms the Council's response to the consultation paper

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Date: 21 December 2010

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Appendix: Appendix A: Response to the Consultation Paper

Background Papers: 1. Consultation on Householder Permitted Development Rights

Wards affected: All