

WEST DUNBARTONSHIRE COUNCIL**Report by Planning, Building Standards and Environmental Health Manager****Planning Committee: 2nd August 2023**

Subject: Review of Permitted Development Rights: Phase 3 Consultation**1. Purpose**

- 1.1 To seek the agreement of the Committee to submit a response to the Scottish Government consultation on the review of permitted development rights.

2. Recommendations

- 2.1 It is recommended that the Committee agree the proposed Council responses set out in Appendix 1.

3. Background

- 3.1 Permitted development rights refer to forms of development which are granted planning permission through national legislation, meaning they can be carried out without an application for planning permission having to be submitted to the relevant planning authority.

- 3.2 Permitted Development Rights are set out in the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 and Use Classes are set out in the Town and Country Planning (Use Classes)(Scotland) Order 1997. Both are kept under review by the Scottish Government.

- 3.3 The Scottish Government commenced a programme of reviewing and extending permitted development rights, as part of its wider planning reform programme, in November 2019. A Phase 1 consultation was undertaken in October 2020 and focused on permitted development rights for digital telecommunications infrastructure, agricultural development, peatland restoration and active travel. Phase 2 was published in May 2022 and focused on electric vehicle charging infrastructure, changes of use in city, town and local centres and port development.

4. Main Issues

- 4.1 Phase 3 of the Scottish Government's review of permitted development rights was published on 31st May 2023 and focuses on renewable energy equipment, replacement windows in the context of thermal efficiency, electricity network infrastructure, reverse vending machines and temporary use of land for shooting ranges. The consultation document can be found at the following link:

[Supporting documents - Permitted Development Rights review - phase 3: consultation - gov.scot \(www.gov.scot\)](http://www.gov.scot)

- 4.2** The proposed Council response to the consultation is attached as Appendix 1. A summary of the Council's response is provided under the relevant headings below.

Domestic Renewables

- 4.3** The consultation seeks views on domestic renewables including domestic solar equipment, air source heat pumps, ground and water source heat pumps domestic, wind turbines (freestanding and building mounted) and flues for certain domestic heating systems.
- 4.4** On the issue of the proposed permitted development rights for solar panels attached to the side and rear of domestic properties in conservation areas, the Council is supportive in principle of measures to extend permitted development rights in respect of solar panels attached to domestic properties in conservation areas. However, this requires to be balanced with the potential for impacts on the appearance of buildings or land within conservation areas depending on the position of the building and layout of the wider conservation area. In order to retain appropriate control, permitted development rights for solar panels to the rear of domestic buildings should be restricted to where they do not front a road. Solar panels to the side of domestic buildings in conservation areas should continue to be controlled via the requirement for planning permission.
- 4.5** With regard to solar panels on outbuildings, the Council is of the view to minimise impacts within conservation areas, where an outbuilding is positioned to the side of the main house solar panels to the elevation and roofslope of the outbuilding facing towards the front curtilage should not benefit from permitted development rights.
- 4.6** Considering air source heat pumps, the Council recognises that heat pumps are a key zero carbon emission technology. The Council considers that the removal of the restriction of the number of heat pumps in buildings containing flats could encourage the wider use of this technology to the benefit of tackling climate change. Whilst as the Council is supportive of the retention of the current standards in respect of maximum noise levels as a minimum position, there is the potential for a significant cumulative impact resulting from a number of heat pumps being installed to the same building. Vibration issues may also occur depending on how heat pumps are attached and isolated from buildings. Long-term maintenance is also of concern as inappropriately maintained units have the potential to lead to significant amenity problems in the long term. Care must therefore be taken on how to balance the roll out of this technology with protecting residential amenity. The restriction limiting such installation to the rear of buildings within conservation areas is also supported. The Council does have concerns regarding the potential for air source heat pumps to be located above ground floor level, and that this could result in a proliferation of heat pumps on a building at extremely visible locations. On buildings containing flats, heat pumps should be restricted to ground floor level locations only. Within conservation areas, the Council also considers that heat pumps should be restricted to ground floor location to minimise visual impacts. With regard to ground and water source heat pumps, the Council is of the view that amending classes 6D and 6E to include reference to the provision of pipework and

associated connections will provide greater clarification on the permitted development rights for such installations and, if contained within the curtilage as noted, such connections would be unlikely to have an adverse visual impact.

4.7 With regard to freestanding domestic wind turbines, the Council is supportive of the approach to introduce a maximum turbine height of 15 metres given the potential visual impact of such installations. The Council is also supportive of replacing the 100 metre separation distance between the turbine and curtilage boundary based on the turbine height. This will ensure a more flexible approach that is not overly restrictive in more remote settings. The retention, but simplification, of the prior approval process is welcomed. Considering wall or roof mounted wind turbines to a dwellinghouse, notwithstanding the proposed limitations to permitted development rights for wind turbines attached to dwellings, the installations of such turbines could be extremely visually prominent due to inappropriate siting on a dwellinghouse. Control should therefore be retained through the requirement for planning permission

4.8 On the removal of permitted development rights for flues for wood burning stoves (including wood burners and log burners), biomass boilers and biomass heating systems, the Council acknowledges that there can be concerns relating to the adequate dispersal of pollutants to the air without causing nuisance to neighbours and also the effects from cumulative emissions from biomass and wood burning, particularly in urban areas. Concerns relating to fine particulate matter are also acknowledged. However, the quality and specification of the appliance together with the quality of the fuel being burnt have a significant effect on this and these aspects could not be controlled via permitted development rights. The Council considers that the issue would be better controlled through the encouragement of the installation of clean burning appliances, and restricting the sale and use of wet, unseasoned wood. The Council also considers that any removal of permitted development rights should be restricted to completely new installations. This will ensure they do not discourage or prevent householders from undertaking works to alter or replace damaged or unsafe installations, or replace existing burners with new, cleaner burning installations.

Non-Domestic Renewables

4.9 The consultation seeks views on the following matters with regard to non-domestic renewables including domestic solar equipment, solar canopies within car parks, air source heat pumps and ground and water source heat pumps.

4.10 The Council is supportive of measures to extend permitted development rights in respect of solar panels attached to non-domestic properties and this will not only support business owners but contribute to the reduction of carbon emissions. In order to retain appropriate control, permitted development rights for solar panels to the rear of non-domestic buildings should be restricted to where they do not front a road. Panels to the side of non-domestic buildings in conservation areas should continue to be controlled via the requirement for planning permission. The Council would also not support the removal of the restrictions in close proximity to airports or other aviation installations where the operator of such a site was concerned that the panels could have an adverse impact upon the safety of air traffic.

4.11 With regard to expanding existing permitted development rights to allow these to apply to solar canopies within parking areas generally, rather than only those for which the primary use is charging of electric vehicle, whilst there may be an increased potential for solar canopies to be provided, the provision of solar canopies within off-street parking areas would result in them being provided where land has already been subject of development. The restrictions set out in Class 9M would ensure that the canopies were not overly dominant structures or inappropriately sited, and the very nature of canopy structures is their openness which again would limit visual impact. The Council further consider that the power generating capacity itself need not be restricted.

4.12 Turning to air source heat pumps, the Council is supportive of the installation of air source heat pumps to non-domestic buildings, subject to the restrictions set out which apply to buildings also containing residential properties. However, the Council does have concerns regarding the potential for a number of air source heat pumps to be located above ground floor level and that this could result in a proliferation of heat pumps on a non-domestic building at extremely visible locations. Heat pumps should be restricted to ground floor level locations only. With regard to ground and water source heat pumps, amending class 6I to include reference to the provision of pipework and associated connections will provide greater clarification on the permitted development rights for such installations and, if contained within the curtilage as noted, such connections would be unlikely to have an adverse visual impact. It is agreed that the restriction on the total output of microgeneration equipment in the curtilage of a non-domestic building is no longer relevant and could act as a barrier to improving energy efficiency.

Thermal Efficiency: Domestic and Non-Domestic Buildings

4.13 The consultation seeks views, in connection with thermal efficiency, on introducing permitted development rights for replacement windows in domestic properties in conservation areas together with proposals to align non-domestic buildings with domestic buildings.

4.14 Whilst the Council is supportive of householders replacing windows to seek to improve the thermal efficiency of their properties, the potential impact on the integrity and visual appearance of conservation areas is of concern. Windows are one of the most noticeable parts of a building, particularly on front and other visible elevations. They make a significant contribution to the character of historic buildings and places. The design and materials are often indicative of a buildings age and the appearance can make a significant contribution to the character and special interest of the building and wider conservation area. Replacing original windows inappropriately can harm the overall character and appearance, and historic significance of a building, and fail to preserve and enhance a conservation area. Introducing permitted development rights to replace windows within conservation areas will remove control and potentially result in the installation of unsympathetic or inappropriate windows that have the potential to erode the character of a building, and cumulatively, the wider conservation area in which buildings are located. It could lead to Conservation Areas in the future no longer worthy of their Conservation Area status. It is considered that Planning Authorities are best placed through the requirement for planning permission to ensure that window alterations and replacements are carefully managed in order that the appearance and

character of a building is preserved and that window replacement does not impact does not damage the character of a conservation area.

- 4.15** The Council agrees with approach to align non-domestic buildings with domestic buildings as regards permitted development rights for replacement windows and this would create a consisted approach.

Electricity Undertakings

- 4.16** The consultation seeks views on clarifying when permitted development rights relating to electricity undertakings set out in Class 40 apply, increasing the maximum size threshold for substation infrastructure from 29 cubic metres to 45 cubic metres, allowing the replacement of communications lines in National Scenic Areas and Sites of Special Scientific Interest and allowing the replacement of communication lines which are longer than 1000 metres. Views are also sought on site investigation works in connection with electricity undertakings and the provision of means of enclosure associated with electricity undertakings up to three metres in height. It is further proposed to remove the prior notification requirements that apply to certain works under Class 40.
- 4.17** On the issue of clarifying when permitted development rights set out in Class 40 apply the Council agrees, in recognising the evolving technology, with the approach of amending Class 40 permitted development rights to clarify that they can be applied by statutory undertakers for the purposes of 'smart meter communications' and the 'distribution' and 'interconnection' of electricity as well as its 'generation', 'transmission' and 'supply'.
- 4.18** With regard to sub-station infrastructure, the Council is in agreement with the approach of amending Class 40 by increasing the maximum size threshold from 29 to 45 cubic metres to allow for the installation of certain standard designs employed across the network. The Council is also supportive of the approach to restrict the height of any substation to three metres and also retain the current 29 cubic metre limitation in close proximity to a dwelling (including flats).
- 4.19** The Council has no concerns in respect of the proposals relating to the replacement of communication lines, providing that the design, height or position of the replacement line matches the original. The approach to site investigation works, which will provide greater flexibility in respect of required site investigation works, is supported subject to the conditions including the removal of plant and machinery and restoration of land as set out in the consultation.
- 4.20** The Council supports the approach of enabling electricity undertakers to erect, construct, maintain or improve gates, fences, walls or other means of enclosure up to three metres in height, however consideration should be given to restricting such permitted development rights within conservation areas to ensure that such developments do not have an adverse impact on the appearance of conservation areas. The Council does not agree that, as set out in the consultation, prior notification of and approval from the relevant local planning authority on the siting, design and external appearance of new buildings for housing plant/machinery to be developed on operational land, does not necessarily improve outcome. The process is key to ensuring the appropriate siting and appearance of such

installations and give the Council the opportunity to address inappropriate proposals. The Council considers the prior approval process should be retained.

Reverse Vending Machines

- 4.21** The consultation seeks views on whether permitted development rights should be introduced to allow reverse vending machines to be installed within the public road and footway, subject to certain restrictions.
- 4.22** With regard to reverse vending machines, whilst the Council recognises that for smaller retailers with limited internal floorspace and no dedicated off-street parking or other external curtilage reverse vending machines located on or adjacent to the street, potentially serving as a collection point for multiple outlets, may be an appropriate solution. However, this would require to be carefully balanced with controlling issues relating to road and pedestrian safety together with residential amenity and visual impact within the streetscape. Accordingly, in certain locations such proposals this may be unacceptable. The installation of reverse vending machines on public roads and footways therefore requires to be managed via the planning application process.

Temporary Use of Land: Shooting Ranges

- 4.23** Class 15 of the Permitted Development Order allows a temporary activity – or different use – to take place on land for up to 28 days, within a calendar year, without needing to apply for planning permission. The consultation seeks on potentially amending Class 15 to exclude the use of land as a temporary shooting range comprising fixed targets associated with firearms. The Council disagrees with looking at this matter in isolation from the range of other uses to which Class 15 applies, many of which could have similar amenity implications in terms of noise and activity for example. It would also be undesirable to have a situation where temporary uses or one off events which are already exempt from authorisation under firearms legislation should have a requirement for planning permission.

5. People Implications

- 5.1** There are no personnel issues associated with this report.

6. Financial and Procurement Implications

- 6.1** There are no financial or procurement implications associated with this report.

7. Risk Analysis

- 7.1** There are no risks associated with this report.

8. Equalities Impact Assessment (EIA)

- 8.1** The Scottish Government has undertaken an equalities impact assessment of the consultation documents. This has concluded that where there are impacts, these are positive.

9. Consultation

9.1 None required.

10. Strategic Assessment

10.1 The review of permitted development rights relevant to the Council's strategic priorities of a strong and flourishing economy and promoting a greener future.

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Appendix: Appendix 1: West Dunbartonshire Council response to Permitted Development Rights consultation

Background Papers: Scottish Government Review of Permitted Development Rights [Permitted Development Rights review - phase 3: consultation - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/documents/2022/06/Permitted_Development_Rights_review_-_phase_3_consultation_-_gov.scot)

Wards Affected: All