

Appendix A Scottish Government Consultation on Changes to Non-Domestic Permitted Development

Response to Consultation Questions

Q1. Are there any costs or benefits not identified in the draft BRIA?

As with any extension of the scope of PD rights there is a risk of poor quality development taking place, albeit that the limited nature of the extensions to PD right means that this risk is relatively small.

Q2. Do you have any information or can you suggest sources of relevant information on the costs and/or benefits detailed in the BRIA?

None.

Q3. We would appreciate your assessment of the potential equalities impact our proposals may have on different sectors of the population. A partial EQIA is attached to this consultation at Annex 3 for your comment and feedback.

Nothing to add.

Part 1. Amendments to existing classes of permitted development.

Q4. Should we retain class 26? If class 26 should be retained are there any changes to the controls that would strike a better balance?

Yes ☐ No ☐

This Council is not aware of any sites within our area which are still exercising rights under Class 26, and it is therefore not a significant issue for us.

Q5. With regard to the proposed amendments to existing classes;

(a) Is the granting of permission, and the restrictions and conditions, clear?
Yes ☒ No ☐

(b) Is the granting of permission, and the restrictions and conditions, reasonable?
Yes ☒ No ☐

(c) Will the controls strike the right balance between removing unnecessary planning applications and protecting amenity?
Yes ☒ No ☐

(d) Please identify and explain any changes to the controls that you think would strike a better balance?

The proposals appear to strike an appropriate balance and no changes are suggested.

Part 2. Proposed new classes of permitted development.

Q6. With regard to the proposed new classes 7E and 7F (Electric Vehicle Charging Points);

(a) Is the granting of permission, and the restrictions and conditions, clear?
Yes ☒ No ☐

(b) Is the granting of permission, and the restrictions and conditions, reasonable?
Yes ☒ No ☐

- (c) Will the controls strike the right balance between removing unnecessary planning applications and protecting amenity?
Yes ☒ No ☐
- (d) Please identify and explain any changes to the controls that you think would strike a better balance?

The restriction on development where it would “face onto and be within two metres of a road” would seem easy for developers to circumvent by orientating the charging point to face away from the road, yet still being within 2m of it and accessible from it. It is understood that this restriction is intended to prevent the charging of vehicles when they are parked on the public road, whilst not preventing charging on private land next to the road. It is suggested that this might better be achieved by a qualification that development is not permitted by Class 7E if the equipment is positioned so as to allow its use by vehicles parked on the public road.

Q7. With regard to the proposed new classes 7A and 7B (Shops etc.);

- (a) Is the granting of permission, and the restrictions and conditions, clear?
Yes ☐ No ☒
- (b) Is the granting of permission, and the restrictions and conditions, reasonable?
Yes ☒ No ☐
- (c) Will the controls strike the right balance between removing unnecessary planning applications and protecting amenity?
Yes ☐ No ☒
- (d) Please identify and explain any changes to the controls that you think would strike a better balance?

Whilst the term “original building” is widely used in relation to certain existing classes of PD with little difficulty, it is potentially problematic in relation to retail development. Retail units are frequently subdivided and combined with one another without the need for planning permission and the concept of the original building as being the building original approved or the building as it existed in 1948 will not necessarily be relevant to the shop unit as it exists today.

The proposal would grant PD rights for all elevational alterations (other than alterations to existing shopfronts). This would potentially quite significant alterations to shop buildings, including the formation of new shopfronts on elevations which do not currently have these. It is suggested that the class exclude any development involving alterations to an elevation fronting a road, and the formation of new means of public access/egress to/from the building other than emergency exits.

Q8. With regard to the proposed new class 7C (Institutional Uses);

- (a) Is the granting of permission, and the restrictions and conditions, clear?
Yes ☒ No ☐
- (b) Is the granting of permission, and the restrictions and conditions, reasonable?
Yes ☒ No ☐
- (c) Will the controls strike the right balance between removing unnecessary planning applications and protecting amenity?
Yes ☒ No ☐

(d) Please identify and explain any changes to the controls that you think would strike a better balance?

The proposals seem generally proportionate. Elevational alterations facing roads may adversely affect the appearance of the building, but this is considered less likely to be a problem than for shops.

Q9. With regard to the proposed new class 7D (Offices);

(a) Is the granting of permission, and the restrictions and conditions, clear?

Yes ☒ No ☐

(b) Is the granting of permission, and the restrictions and conditions, reasonable?

Yes ☒ No ☐

(c) Will the controls strike the right balance between removing unnecessary planning applications and protecting amenity?

Yes ☒ No ☐

(d) Please identify and explain any changes to the controls that you think would strike a better balance?

The proposals seem generally proportionate. Elevational alterations facing roads may adversely affect the appearance of the building, but this is considered less likely to be a problem than for shops.

Q10. With regard to the proposed new class 7H (Outdoor Seating);

(a) Is the granting of permission, and the restrictions and conditions, clear?

Yes ☐ No ☒

(b) Is the granting of permission, and the restrictions and conditions, reasonable?

Yes ☒ No ☐

(c) Will the controls strike the right balance between removing unnecessary planning applications and protecting amenity?

Yes ☒ No ☐

(d) Please identify and explain any changes to the controls that you think would strike a better balance?

It is assumed that the definition of café will exclude public houses and other licensed premises, though this definition is incomplete in the draft order.

It is also not at all clear what is meant by *“for the ... consumption of food and drink on land consisting of a public footway and adjoining café”*. This use of the word *“and”* can be interpreted as meaning that land wholly within the café’s curtilage would not qualify, whilst the restriction that the development not be within 3m of a road (which is usually defined as including the footpath) means that development on the public footpath is itself excluded. If *“road”* is meant to mean only the vehicular carriageway, the 3m restriction would not be sufficient to allow safe pedestrian movement in cases where there was an intervening feature of some kind between the footpath and the carriageway (e.g. a grass verge, planter, street trees etc.).

It is suggested that the class be reworded as *“...consumption of food and drink on land within the curtilage of a café and/or a public footway adjacent to such a café”* subject to the restriction that the useable width of any such footway shall not be reduced at any point to a width of less than 3m.

Q11. With regard to the proposed new class 7G (Access Ramps);

- (a) Is the granting of permission, and the restrictions and conditions, clear?**
Yes ☒ No ☐
- (b) Is the granting of permission, and the restrictions and conditions, reasonable?**
Yes ☒ No ☐
- (c) Will the controls strike the right balance between removing unnecessary planning applications and protecting amenity?**
Yes ☒ No ☐
- (d) Please identify and explain any changes to the controls that you think would strike a better balance?**

The proposed class seems reasonable and proportionate.