

Supplementary Agenda



Planning Committee

Date: Wednesday, 2 August 2023

Time: 10:00

Venue: Council Chambers, Clydebank Town Hall, 5 Hall Street,
Clydebank G81 1UB

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Dear Member

ITEM TO FOLLOW

I refer to the agenda for the above meeting that was issued on 20 July 2023 and now enclose a copy of **Item 10**, which was not available for issue at that time.

Yours faithfully

PETER HESSETT

Chief Executive

Note referred to:-

10 CONSULTATION ON SCOTTISH GOVERNMENT REVIEW XX - XX
OF PERMITTED DEVELOPMENT RIGHTS – PHASE 3

Submit report by the Planning, Building Standards and Environmental Health Manager seeking agreement to submit a response to the Scottish Government consultation on the review of permitted development rights.

Distribution:-

Councillor Lawrence O'Neill (Chair)
Councillor Gurpreet Singh Johal (Vice Chair)
Councillor Ian Dickson
Councillor Daniel Lennie
Provost Douglas McAllister
Councillor June McKay
Councillor Karen Murray Conaghan
Councillor Chris Pollock
Councillor Hazel Sorrell
Councillor Sophie Traynor

All other Councillors for information

Date of Issue: 26 July 2023

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:

- 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 role 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.

the potential to lead to significant amenity problems in the long term, and some considerable time following installation. Care must therefore be taken on how to balance the role out of this technology with protecting residential amenity. The Council is also supportive of continuing to restrict such installation to the rear of buildings within conservation areas. 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 considered that heat pumps should be restricted to ground floor location to minimise visual impacts.

Q4. Do you agree that classes 6D and 6E should be amended to include reference to the installation etc of pipework and associated connections required to operate a ground or water source heat pump?

Agree – 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.

Q5. Do you agree with the proposed amendments to permitted development rights for free-standing domestic wind turbines?

Agree – Considering the proposals to introduce a maximum domestic wind turbine height of 15 metres, the Council is supportive of such an approach given the potential visual impact within domestic setting. 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. However consideration must be given to the separation distance to ensure it does not result in a clustering of turbines on different properties. The retention, but simplification, of the prior approval process is welcomed and important.

Q6. Do you agree with the current list of designated areas where the permitted development rights do not apply, noting that the list does not currently include national parks or National Scenic Areas?

Agree – The Council is in agreement with the current list of designated areas where permitted development rights do not apply, subject to the height limitations proposed which will minimise the potential for adverse visual impact resulting from domestic turbines.

Q7. Do you agree with the proposed new permitted development rights for wall or roof-mounted wind turbines attached to a dwellinghouse?

Disagree – 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 to balance the installation of such proposals and the role they can have in contributing to the reduction in carbon emissions with adverse amenity impacts.

Q8. Do you have any comments on the potential 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. Equally, removing permitted development rights would be disproportionate, particularly in rural areas where biomass fuel often forms an established part of heating requirements. Many installations can also be made utilising existing chimneys. 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 the matter can also be controlled via public health legislation and it is inappropriate to seek to duplicate this either in whole or in part through the planning process / legislation.

Q9. Noting that current permitted development rights (PDR) cover the installation, alteration or replacement of flues, should any removal of these PDR be limited to installation of new flues, or also prevent existing flues being altered or replaced under PDR?

The Council considers that any removal of permitted development rights should be restricted to completely new installations. They should not result in the alteration or replacement of existing flues requiring planning permission. This may discourage or prevent householders from undertaking works to alter or replace damaged or unsafe installations, or replace existing burners with new, cleaner burning installations as the required new flue couldn't be installed as permitted development.

Non-Domestic Renewables

Q10. Do you agree with the proposed amendments to class 6J permitted development rights for solar panels attached to non-domestic buildings?

Agree in part – 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. Within conservation areas, the Council would be concerned that where rear elevations front a road, the impact on the character and appearance of conservation areas could be significant. In respect of side elevations, even where they do not front a road they can be clearly visible in conservation areas and often viewed in the conjunction with the principle elevation.

Therefore the Council is supportive of introducing permitted development rights for solar panels on the rear of non-domestic buildings but only where they do not front a road. The Council would not be supportive of introducing permitted development rights for solar panels to the side of non-domestic buildings in conservation areas.

Q11. Do you have any comments on the potential to amend the current restrictions that apply to solar panels on non-domestic properties (class 6J) and solar canopies in parking areas (class 9M) within 3km of airports and technical sites associated with civilian and military air traffic services?

The Council would 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.

Q12. Do you agree with the proposed new permitted development rights for solar panels within the curtilage of non-domestic buildings?

Agree in part – Whilst the Council supports the installation of free-standing solar panels within the curtilage of non-domestic properties, subject to the limitations set out in the consultation, these limitations should be extended to ensure that such installations are not installed within areas utilised for parking or servicing for example. This will ensure that access for parking and service vehicles is not inappropriately impacted upon with associated knock on impact on local road safety.

Q13. Do you agree with the proposal to extend the Class 9M permitted development rights to allow these to apply to solar canopies generally, rather than only those for which the primary use is charging of electric vehicle?

Agree - 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 potential impact of glint and glare from a large number of solar canopies in close proximity would be a concern to the Council and this would require to be considered.

Q14. Do you agree that any extension of Class 9M permitted development rights to be for the purposes of producing electric power generally, should not have a maximum power generation capacity?

Agree – The Council does not consider the power generating capacity itself requires to be restricted.

Q15. Do you agree with the proposed permitted development right for air source heat pumps on non-domestic buildings?

Agree in part. The Council is supportive of the installation of air source heat pumps to non-domestic building, 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.

Q16. Do you agree with our proposed amendments to class 6I permitted development rights for ground and water source heat pumps on non-domestic buildings?

The Council is of the view that 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

Q17. Do you agree with the proposed permitted development rights for replacement windows of domestic buildings located in conservation areas?

Disagree – 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 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. 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 and/or damage the character of a conservation area. In assessing planning applications for replacement windows in conservation areas, the Council always seeks to balance the cost implications of replacing windows and a householders desire to upgrade their home and improve energy efficiency with the impact upon the historic environment. This includes being flexible on materials and appearance where it is considered appropriate to do so.

Even with the limitations suggested in the consultation, the introduction of permitted development rights for replacement windows within conservation areas will remove the ability of Planning Authorities to balance householders window replacement proposals with the impact on the character and appearance of a conservation area. This has the potential to significantly erode the character and appearance of conservation areas and such an approach is not supported.

Q18. Do you have any comments on the conditions that we propose the permitted development rights for replacement windows would be subject to?

In the event that permitted development rights were introduced for replacement windows in conservation areas, the limitations described in the consultation must apply to all windows and not just those on a principle or side elevation fronting a road. What is meant by “like-for-like” or “matching” must be defined. Whilst minor tolerances may be allowed together with the use of different material (eg uPVC rather than timber), the Council considers that overall, the windows would require to have the same appearance, profile and opening mechanism.

Q19. Do you agree with the proposal to align non-domestic buildings with domestic buildings, as regards permitted development rights for replacement windows? Are there any types of non-domestic building that should be excluded?

Agree - 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. However see responses to Q17 and 18 whereby the Council does not support the extension of permitted development rights for replacement windows.

Electricity Undertakings

Q20. Do you agree that class 40 permitted development rights should be amended 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’?

Agree – In recognising the evolving technology, the Council agrees 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'.

Q21. Do you agree with the proposed amendments to the provisions of class 40 permitted development rights which relate to new or replacement substations?

Agree – 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. This support would be subject to the retention of the prior notification / approval process to ensure control is retained over siting and visual appearance, particularly in locations where they have to potential to detract from the locality.

The Council is supportive of the approach to restrict the height of any substation to 3 metres and also retain the current 29 cubic metre limitation in close proximity to a dwelling (including flats).

Q22. Do you agree with the proposal to allow the replacement of communications lines in National Scenic Areas and Sites of Special Scientific Interest under class 40 permitted development rights provided that the design, height or position of the replacement line matches the original?

The Council agrees with this approach provided, as indicated in the consultation, that the design, height or position of the replacement line matches the original.

Q23. Do you have any thoughts on the potential to provide for the installation or replacement of communications lines of a greater length than 1,000m under class 40? If so, do you have a view on an appropriate alternative threshold?

Providing the design, height or position of the replacement line matches the original, the Council does not have any further views on this matter.

Q24. Do you agree with the proposal to extend the range of site investigation works that can be carried out under class 40?

Agree – The Council agrees with this approach which will provide greater flexibility in respect of required site investigation works. The conditions including the removal of plant and machinery and restoration of land as set out in the consultation are supported.

Q25. Do you consider that there are any designated areas where permitted development rights for certain site investigation works should be restricted? Should there be any limitations on the scale of certain intrusive site investigation works permitted, for example, the size of trial pits?

Subject to full site restoration as, per the answer to question 24, the Council does not consider any restrictions in respect of designated areas are necessary.

Q26. Do you agree with the proposed introduction of specific permitted development rights enabling electricity undertakers to erect, construct, maintain or improve gates, fences, walls or other means of enclosure up to 3m in height?

Agree in part – The Council supports this approach, 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.

Q27. Do you agree with the proposed removal of prior approval requirements that apply to certain works under class 40 permitted development rights?

Disagree – 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. Often these operational developments/ structures can detract from adjacent development and the Prior Notification process allows issues and improvements to be addressed thus minimising its impact and integrating it into its surrounding environment. The Council strongly considers the prior approval process should be retained.

Q28. Please provide any further views you may have on the proposals in Chapter 5 on the permitted development rights associated with electricity undertakings.

The Council has no further views.

Reverse Vending Machines

Q29. Do you agree with the proposed amendments to permitted development rights for reverse vending machines?

Disagree – 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

Q30. Do you have any comments on the potential exclusion of the use of land as a target shooting range from class 15 PDR (permitted development right)? If such a change were taken forward, do you have views on the potential justification for exempting the activities discussed in paragraphs 6.2.4 and 6.2.5?

Disagree – 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.

Assessment of Impacts

Q31. What are your views on the findings of the Update to the 2019 Sustainability Appraisal Report at Annex A?

The Council notes the findings and has nothing further to add.

Q32. Do you have any comments on the partial and draft impact assessments undertaken for Phase 3?

The Council has no comments on the partial and draft impact assessments undertaken.

Q33. Do you have any suggestions for additional sources of information on the potential impacts of the proposals that could help inform our final assessments?

The Council has no suggestions for additional sources of information.