

WEST DUNBARTONSHIRE COUNCIL

Report by Planning, Building Standards and Environmental Health Manager

Planning Committee: 3rd August 2022

Subject: Review of Permitted Development Rights 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** The definition of “development” under planning legislation includes making a material change to the use of land or buildings, meaning material changes of use require planning permission. However, the Use Class Order groups together various land uses with broadly similar planning impacts into separate “use classes”, and legislation provides that a change of use within a use class, or between certain classes, does not constitute development for planning purposes, and so no planning permission is required.
- 3.3** 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.
- 3.4** 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.

4. Main Issues

- 4.1** Phase 2 of the Scottish Government's review of permitted development rights was published in May 2022 and focuses on electric vehicle charging infrastructure, changes of use in centres and port development. The consultation document can be found at the following link:

<https://www.gov.scot/publications/review-permitted-development-rights-phase-2-consultation/documents/>

- 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.

Electric Vehicle Charging Infrastructure

- 4.3** The consultation seeks views on the following matters with regard to Electric Vehicle (EV) Charging Infrastructure:

- The removal of restrictions on the installation of wall mounted and pedestal EV charging infrastructure in a site of archaeological interest; a national scenic area; a historic garden or designed landscape; a historic battlefield; a conservation area; a National Park; and a World Heritage Site.
- The removal of restrictions on the attachment of nameplates to wall mounted and pedestal EV charging infrastructure.
- An increase in the height of EV charging pedestals which can be installed in off-street parking areas without requiring planning permission from 1.6 metres to 2.5 metres.
- Provision of solar canopies, battery storage and equipment housing within off-street parking areas without the requirement of planning permission.
- Clarification of permitted development rights for local authorities.
- Permitted development rights for the provision of EV charging infrastructure in roads for parties other than local authorities.

- 4.4** On the issue of the removal of restrictions for the installation of wall mounted and pedestal EV charging infrastructure in certain areas, the Council is supportive as the removal of this restriction could encourage a wider roll out of EV charging infrastructure within these areas to be benefit of tackling climate change. The visual impact within the specific areas currently listed would be limited. Where specific concerns from such developments arise, the option to introduce an Article 4 Direction remains whereby a Council could take forward the removal of permitted development rights in certain areas.

- 4.5** On the issue of the removal of restrictions on the attachment of nameplates to wall mounted and pedestal EV charging infrastructure, the Council is of the view that nameplates on EV charging upstands would be unlikely to result in extensive visual clutter. However in order to retain an element of control, any nameplates or other identifiers would require to be accommodated solely on the charging infrastructure and not be either free standing or attached to walls etc adjacent infrastructure.
- 4.6** Considering the increase in height for EV charging upstands in existing off-street parking areas, the Council considers that it would be unlikely to have any additional or significant visual impacts beyond the upstand infrastructure that can currently be installed under existing permitted development rights. The proposed increase would encourage the roll out of this technology encouraging the switch to EVs to the benefit of tackling climate change. Any increase in height should be balanced with a restriction regarding the proximity of an upstand to residential properties to balance the impact on residential amenity.
- 4.7** With regard to the provision of solar canopies, battery storage and equipment housing within off-street parking areas, the Council supports infrastructure to power charging points by renewable means. 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 restriction to four metres would ensure that the canopies were not overly dominant structures 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 require to be considered. Any related battery storage and equipment housing would be typical of other transport infrastructure and other installations such as telecommunication cabinets for example and it is not considered they would be out of place in off-street parking areas. The restriction on the size and number of such installations is supported by the Council. It would not be appropriate in all locations and the restrictions in paragraph 2.24 of the consultation document in respect of there not being permitted development rights in sites of archaeological interest; National Scenic Areas; historic gardens or designed landscapes; historic battlefields; conservation areas; National Parks; World Heritage Sites; and the curtilage of dwellinghouses are supported as are the height and size restrictions together with the restrictions on the distance from residential properties
- 4.8** On the clarification of permitted development rights for local authorities, clarity on the legislative position with regard to permitted development rights is welcomed by the Council and this would be useful in ensuring no confusion occurs. Changes to permitted development rights to take account of emerging models for financing, delivering and operating EV charging infrastructure, and the changing nature of private sector involvement is not

considered to be required as permitted development rights are not limited by the funding source of a development.

- 4.9** On the question of whether permitted development rights for the provision of EV charging infrastructure in roads should apply to parties other than local authorities, the Council considers that other non-planning controls can ensure that such developments themselves do not result in infrastructure causing an obstruction etc. However, the very nature of EV charging infrastructure means that it is associated with vehicles which are parked. Other non-planning controls may not be sufficient to ensure that infrastructure is not provided in locations where it would be inappropriate for vehicles to be parked (for example adjacent to junctions). Equally, there is concern that there could be a risk of such developments being undertaken immediately adjacent to residential windows to the detriment of residential amenity.

Changes of Use in Centres

- 4.10** The consultation seeks views on the following matters with regard to centres:

- The merging together of several use classes to create a town centre use class - this would bring together a number of separate use classes, such as shops, services, and food and drink, into a single use class, with no planning permission required to change between these uses.
- Whether Masterplan Consent Areas could be a useful tool for introducing more flexibilities to town centres - a Masterplan Consent Area would enable whole or parts of town centres to be identified as areas within which certain changes of use could take place without requiring planning permission.
- Permitted development rights to encourage Class 4 business use in town centres - the change being consulted on is whether town centre uses should be permitted to change to business use (up to 300 square metres) without needing planning permission.
- Permitted development rights for moveable outdoor furniture – there is a suggestion of permitted development rights being granted to moveable furniture associated with food and drink uses.
- Permitted development rights for residential accommodation – England has permitted development rights for some uses to change to residential use without the need for planning permission. The consultation seeks views on whether this should apply to Scotland.

- 4.11** On the issue of creating a town centre use class, the proposed response recognises that this would introduce additional flexibility that may support investment and increase unit occupancy in centres. However, it identifies risks such as that the permitted development rights would also exist outwith centres, and that there would be the removal of controls that communities

are supportive of planning authorities having, including for example the identification of core retail areas (West Dunbartonshire has these in Clydebank and Dumbarton) and the prevention of the clustering of certain uses, for example food and drink uses. The response indicates that Masterplan Consent Areas would provide a more targeted means for planning authorities to introduce change of use flexibility within centres or selected parts of centres.

- 4.12** On the issue of permitted development rights for change of use to Class 4 business, the proposed response recognises that such a change would introduce flexibility that may support investment in, and the creation of new business premises, although this could create business premises in locations that could compete with centres and established business locations. On whether the proposed 300 square metre limit is appropriate, the response indicates that a key consideration will be whether this would offer a worthwhile investment to developers and create space that would be attractive to users. Parking provision would also be a consideration.
- 4.13** On the issue of moveable furniture outside of Class 3 food and drink uses, this should be permitted development but restricted to town centres. These permitted development rights should also apply to Class 7 uses, hotels and hostel and with caution, to public houses.
- 4.14** On whether permitted development rights should exist for residential development in Scotland's centres, it is considered that residential development should be plan-led or achieved through the full consideration of a planning application, so that amenity and impact on other uses and infrastructure can be considered.

Port Development

- 4.15** The consultation seeks views on the following matters with regard to Ports:
- Whether in respect of permitted development rights, there should be a level playing field between English and Scottish ports.
 - With respect to the recent amendments in England, what the practical effect of making an equivalent change to Class 35 permitted development rights would be.
 - Whether there is scope to widen permitted development rights further.
 - Whether Masterplan Consent Areas could be a useful tool to provide more extensive planning freedoms and flexibilities in Scotland's ports.
- 4.16** On the question on parity with the position in England, the Council considers that the creation of a level playing field with England would be beneficial to

the economic development of the area and support growth and the movement of goods.

- | **4.17** On the practical effects of amending permitted development rights to match those in England, this will widen the scope of the types of development that can be undertaken and who can undertake it. This will allow greater flexibility to undertake development. Allowing for development to be undertaken by the statutory undertakers agents of development would give further flexibility with development being able to be undertaken through Permitted Development Rights by others on their behalf. The Council supports the requirement for development to be subject of consultation with the local authority.
- | **4.18** On the question on widening permitted development rights further, the Council considers that the proposed alignment with England to provide the most appropriate approach in balancing the operation of Ports together with growth and movement of goods against protecting the interests of the wider area in terms of the level of development that can be undertaken.
- | **4.19** Considering the use of Masterplan Consent Areas, the Council considers that masterplan consent areas could be a useful tool in providing planning flexibility in the development of Scotland's ports. Such an approach could create certainty in developments and reduce costs relating to individual developments and front-loading the process in terms of technical surveys and assessments, reducing complexity further down the line. The use of Masterplan Consent Areas could also simplify the approval processes for individual developments where they are essential to the operational development of a Port.

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 The views of Regeneration, Roads and Transportation, Licensing and Environmental Health were sought in the preparation of this report.

10. Strategic Assessment

10.1 The review of permitted development rights and use classes is relevant to the Council's strategic priority of a strong local economy and improved job opportunities as it seeks to introduce more flexibility into the planning system in order to increase investment.

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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 - <u>Planning - permitted development rights review - phase 2: consultation - gov.scot (www.gov.scot)</u>
Wards Affected:	All