

West Dunbartonshire Council response to Scottish Government Review of Permitted Development Rights

Electric Vehicle Charging Infrastructure

Q1. Do you agree with the removal of restrictions on Class 9EPDR, for wall-mounted EV charging outlets, in the specified areas currently listed in Class 9E(3)? Please explain your answer

Agree – The Council notes that an electrical outlet mounted on a wall for the charging of EVs is limited to 0.5 cubic metres by Class 9E(2)(a) and cannot face on to a road (Class 9E(2)(b)). Accordingly the Council considers that the visual impact within the specific areas currently listed in Class 9E(3) would be limited. The Council is of the view that the removal of this restriction could encourage a wider role out of EV charging infrastructure within these areas to be benefit of tackling climate change. Where specific concerns from such developments arise, the option to introduce an Article 4 Direction to restrict permitted development rights in certain areas remains.

Q2. Should the conditions regarding nameplates be withdrawn from Class 9E on wall-mounted EV charging outlets? Please explain your answer.

Agree – The Council is of the view that nameplates on EV charging outlets themselves 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 outlet casing and not on adjacent walls for example.

Q3. Do you agree with the removal of current restrictions on Class 9F PDR for EV charging upstands in the specified areas currently listed in Class 9F(3)? Please explain your answer.

Agree – Off-street parking areas typically include a variety of items and infrastructure including lighting for example and the additional visual impact of provision of EV charging upstands would unlikely be adverse. The Council considers that the removal of this restriction could encourage a wider role out of EV charging infrastructure within these areas to be benefit of tackling climate change. Where specific concerns from such developments arise, the option to introduce an Article 4 Direction restricting permitted development rights in certain areas remains.

Q4. Should the conditions regarding nameplates be withdrawn from Class 9F on EV charging upstands? Please explain your answer.

Agree – The Council is of the view 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 upstands and not be free standing adjacent to the upstands.

Q5. Do you agree with the proposed increase in height allowable for EV charging upstands under Class 9F PDR from 1.6 metres to 2.5 metres in all off-street

parking locations, except within the curtilage of a dwelling? Please explain your answer

Agree – Considering the increase in height for EV charging upstands in existing off-street parking areas such as public car parks, the Council considers that it would be unlikely that such an increase to have any additional or significant visual impacts beyond the upstand infrastructure that can currently be installed under existing PDR rights. The proposed increase would encourage the roll out of this technology encouraging the switch to EVs to the benefit of tackling climate change.

Notwithstanding this, areas lawfully used for off-street parking would include residents parking areas within residential developments. Whilst the retention of the existing height limit within the curtilage of residential properties is welcomed in providing the balance between the roll out of new EV infrastructure and protecting residential amenity, the Council notes off-street parking areas within residential developments can often be found in close proximity to residential properties and residential windows whilst being outwith the curtilage of the adjacent residential properties. The Council considers that any increase in height must be balanced with a restriction regarding the proximity of an upstand to residential properties to balance the impact on residential amenity.

Q6. Do you agree with the proposal to introduce PDR for solar canopies and related battery storage and equipment housing for EV charging upstands in off-street parking areas? Please explain your answer.

Agree – 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 be a concern to the Council and this would require to be considered.

Off-street parking areas within residential developments can often be found in close proximity to residential properties and residential windows whilst being outwith the curtilage of the adjacent residential properties. Any PDRs for such canopies would require to include an appropriate restriction on the proximity of a solar canopy to residential properties to balance the impact on residential amenity. The Council considers the suggested 10 metre stand off from any dwelling is appropriate.

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.

The Council is in agreement that this infrastructure 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.

Q7. Do you agree with the proposal to introduce PDR for equipment housing for EV charging upstands in off-street areas where solar canopies are not provided? Please explain your answer.

Agree – The Council considers that 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.

Q8. Do you agree with the list of areas within which new PDR for such solar canopies and related battery storage and equipment housing should not apply? Please explain your answer.

Agree – The Council is of the position that this infrastructure would not be appropriate in all locations and the restrictions are supported. The potential impact on the setting of listed buildings also raises concerns for the Council and it is considered that the list of areas should be expanded to include the curtilages of listed buildings.

Q9. Do you agree with the suggested height limit of 4 metres on PDR for solar canopies for EV charging upstands in off-street parking areas? Please explain your answer.

Agree – The Council supports the restriction to 4 metres which would ensure that the canopies were not overly dominant structures

Q10. Do you agree with the proposal that any new PDR for solar canopies, battery storage and equipment housing for EV charging upstands in off-street parking areas should not apply within 5 metres of a road and 10 metres of the curtilage of a dwelling? Please explain your answer

Agree – Infrastructure requires to be set back from the road to ensure that it does not interfere with sightlines and visibility splays and also to limit visual impact. A distance of 5 metres is considered appropriate by the Council. Off-street parking areas within residential developments can often be found in close proximity to residential properties and residential windows whilst being outwith the curtilage of the adjacent residential properties. Any PDRs for such canopies would require to include an appropriate restriction on the proximity of a solar canopy to residential properties to balance the impact on residential amenity. The Council considers the suggested 10 metre distance from any dwelling is appropriate.

Q11. Would it be helpful to amend Class 30 PDR for local authorities to make clear they apply to EV charging points and any associated infrastructure? Please explain your answer.

Agree – Clarity on the legislative position with regard to PDRs is welcomed by the Council and this would be useful in ensuring no confusion occurs. Alternatively, clarity could be provided within an appropriate Circular.

Q12. Do local authority PDR need to be amended to take account of emerging models for financing, delivering and operating EV charging infrastructure, and the changing nature of private sector involvement? Please explain your answer.

Disagree – The Council notes that local authority PDR are not limited by the funding source of a development. If the works are being undertaken by or on behalf of a Local Authority, existing PDR would apply.

Q13. Should PDR for EV charging infrastructure in roads apply to parties other than local authorities? Please explain your answer.

Disagree – 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, the Council is concerned that there could be a risk of such developments being undertaken immediately adjacent to residential windows to the detriment of residential amenity.

It maybe that an arrangement where such developments could be taken forward under PDRs providing these rights were linked to some form of other Local Authority authorisation on position. But strict controls would be required.

Q14. If so, would such PDR for other parties need to be linked to some arrangement with local authorities or other form of authorisation? Please explain your answer.

Agree – As per question 13 above.

Q15. What conditions and limitations would need to be placed on any additional PDR for EV charging infrastructure in roads? Please explain your answer.

Given the potential visual impact, the Council is of the view that this infrastructure would not be appropriate in all locations and restrictions on areas where PDRs do not apply would be required. This would require to include Conservation Areas. PDRs for parties other than Local Authorities would require to be linked to some form of other Local Authority authorisation on position and installation. It could be that a submission to whether the Prior Approval of the Planning Authority is required to ensure control. To further ensure appropriate control, a specific register of installers / operators should be created to ensure that such installations are undertaken and operated by an appropriate manner.

Q16. In relation to extending PDR for EV charging infrastructure in roads, what issues need to be considered regarding existing PDR, and rights to access the roads network, for infrastructure which are available to other sectors, such as electricity undertakers? Please explain your answer.

In order to ensure that there is no gaps in the regulatory environment, PDRs for other sectors such as electricity undertakings should be adjusted to ensure that EV charging infrastructure is not included and that such infrastructure is covered under a single Class.

Q17. Do you agree in principle with having PDR for changing existing petrol/diesel stations to EV charging only? Please explain your answer.

Agree – The Council agrees with the principle with having PDR for changing existing petrol filling stations to EV charging only. The Council considers that changes in the overall form of the existing petrol filling station should not be permitted of existing height, buildings and generalities of the layout inclusive of access arrangements. However, the conversion or part conversion of existing filling stations to EV charging only could be undertaken without any detriment either visually or in respect of road access and road safety.

Q18. If so, what, if any, further specification of the conditions and limitations identified, or additional ones, would be required for such? Please explain your answer.

The Council considers that PDRs for the provision of solar canopies / solar panels should be limited in a similar way to that proposed for off-street parking areas in order to avoid adverse visual impacts and potential impacts from glint and glare.

Changes of Use in Centres

Q19. Do you consider that a merged use class bringing together several existing classes would help to support the regeneration, resilience and recovery of Scotland's centres? Please explain your answer.

The Council considers that a merging of uses to create a Town Centre Use Class would introduce additional flexibility that may support investment and increase unit occupancy in Scotland's centres. However as an application for planning permission forms only part of the process, investment and decision-making involved in undertaking a change of use, it may be that if implemented this change is not significant.

Q20. What do you consider to be the key risks associated with such a merged use class, and do you think that non-planning controls are sufficient to address them? Please explain your answer.

The Council considers the key risks to be as follows:

- the application of the Town Centre Use Class to areas outwith centres – as the consultation paper sets out, it would not be possible to restrict PDR associated with a town centre use class to just town centres.

- the removal of planning controls that communities are supportive of planning authorities having - for example many traditional food and drink uses now have a significant takeaway operation increasing footfall and vehicle visits to the premises. Communities would expect Councils to have a degree of control over the location of such uses.
- the creation or loss of clusters of certain uses – some planning authorities still identify core retail areas where there is a presumption against a loss of Class 1 uses in order to ensure the centre continues to have a strong retail offer. Such an approach would not be possible with a town centre use class. Similarly, some planning authorities operate policies to prevent the clustering of certain uses, and again this might not be possible with a town centre use class, although uses such as hot food takeaways and pay day lending are sui generis.
- Loss of control of amenity issues where no planning application is required for changes between uses with different characteristics and the associated negative impact on neighbouring properties.

Q21. Are there any other changes to the UCO which you think would help to support Scotland's centres? Please explain your answer.

The Council has no comments in relation to this question.

Q22. Do you agree that Masterplan Consent Areas could be a useful tool to provide more extensive planning freedoms and flexibilities in Scotland's centres? Please explain your answer

The Council considers that Masterplan Consent Areas would provide a more targeted tool that planning authorities could use to introduce change of use flexibility in selected centres or areas of centres.

Q23. Do you think that a PDR providing for a change of use to Class 4 (business) would help to support the regeneration, resilience and recovery of centres – as well as the establishment of 20-minute neighbourhoods? Please explain your answer.

The Council considers that PDR for the change of use to Class 4 would introduce additional flexibility that may support investment in, and the creation of new business premises. However this flexibility would not be limited to centres and could create alternative investment locations, competing with centres. Again, as an application for planning permission forms only part of the process, investment and decision-making involved in undertaking a such change of use, it may be that if implemented the impact may not be significant.

Q24. If a PDR of this nature were taken forward, what existing uses should it apply to? Please explain your answer.

If the purpose of the change is to enhance town centres then the uses it should be applied to are Classes 1, 2 and 3, which are primarily found within centres.

Q25. Would 300 square metres be an appropriate maximum floorspace limit? Please explain your answer.

A key consideration here is what the market would support i.e. is the creation of 300 square metres of business premises a worthwhile investment and would it create premises that would be attractive to users.

Q26. What (if any) additional conditions or limitations should such a PDR be subject to? Please explain your answer

Given that the PDR would apply to locations in and out of centre including locations that may not be accessible by public transport, the provision of parking would need to be a consideration.

Q27. Do you agree with the proposed introduction of a PDR for moveable furniture placed on the road outside of (Class 3) food and drink premises?

Agree – The Council is of the view that the use of parts of the road/pavement outside Class 3 Uses can assist in supporting existing businesses, make places more vibrant and encourage patrons to both particular premises and areas in general. This would require to be carefully balanced with controlling issues relating to pedestrian safety and residential amenity for example and in certain locations this may be unacceptable.

Q28. Are there any conditions or limitations that you think such a PDR should be subject to? Please explain your answer.

Class 3 uses are found in a variety of locations. In town centres, fairly high levels of activity throughout the day and evening will already result. The Council notes that whilst residents choosing to reside in such locations may benefit from the proximity to local shops and services, they cannot reasonably expect the same degree of quietude as would be experienced within a wholly residential area. However, a balance must be sought between protecting the amenity of nearby residents by seeking to prevent undue noise and disturbance above what could be reasonably expected, whilst at the same time promoting the vitality of existing businesses. Outwith town centre or otherwise busy locations, the level of background activity would likely be less and the potential for disturbance to residents would be greater. Equally, a Class 3 use could be remote from any residential properties. Taking account the variation in the circumstances of Class 3 uses, the Council considers the following limitations would provide an appropriate balance:

- Hours of use limited from 9am to 9pm. The area must be vacated by 9pm.
- No amplified music to be played in the seating area.
- The creation of the area without physical development.
- The outdoor seating area be within 10 metres of the principle elevation of the associated premises to avoid remote outdoor seating areas, the control of which may be difficult.
- Consideration given to a restriction on the size of an area and / or the number of tables.
- No tents, marquees or other similar installations.

Q29. Are there any uses other than (Class 3) food and drink premises which you consider such a PDR should apply to? Please explain your answer.

Hotels (Class 7) often offer similar food and drink availability to Class 3 uses. Public houses could potentially be included as again they often offer similar food and drink availability to Class 3 uses. However, the nature of a public house use could result in additional amenity implications over a Class 3 use. Accordingly, the Council considers that if public houses were to be included, then the hours of operation together with the size of the area would require to be very strictly controlled.

Q30. Do you agree that important matters such as safety and inclusive access could continue be controlled through other regimes?

Agree – Retaining control over where structures are places on the public road and footway can be achieved with the requirement for consent from the relevant Roads Authority and licencing requirements can provide additional controls. To ensure access is retained, a restriction requiring a clear 2 metres of footway to remain at all times and could be added to any PDRs introduced.

Q31. Do you agree that new residential development in Scotland's centres should be plan-led rather than consented through new PDR? Please explain your answer.

Agree - The Council is supportive of greater residential development in town centres, however the type, location and proportion of residential units in relation to other town centre uses requires to be carefully considered and balanced to ensure vibrant and viable centres. The Council's view is that new residential development in Scotland should be plan-led or achieved through the full consideration of a planning application. This will ensure that matters such as achieving acceptable residential amenity, impact on the operation of other uses, and the provision of adequate infrastructure, including green infrastructure, is achieved. All new homes must also be fit for purpose, sustainable and suitably located. Creating new residential development through PDRs could undermine the role of local authorities in shaping communities, public spaces and buildings. The Council is concerned that such an approach would result in poor quality homes in inappropriate locations Whilst supportive of residential development in centres, they need to be carefully considered and planned given the mixed use of centres if the new homes are to be successful and sustainable for many years after occupation.

Q32. Are there any other PDR changes which you think could support the regeneration, resilience and recovery of centres? Please explain your answer.

The Council has no comments in relation to this question.

Port Development

Q33. Do you agree that, with respect to the PDR, there should be a level playing field between English and Scottish ports? Please explain your answer.

Agree - 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.

Q34. With respect to the amendments in England (see Box 5), what do you think the practical effect of making an equivalent change to Class 35 PDR would be – in terms of developments/activities that would be permitted which are not currently? Please explain your answer.

The Council considers that with respect to the amendments in England, an equivalent change to Class 35 would 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 PDRs by others on their behalf. The Council supports the requirement for development to be subject of consultation with the local authority.

Q35. Do you think there is potential to widen the scope of Class 35 PDR further? Please explain your answer.

The Council considers that the proposed alignment with PDRs in 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 via PDRs.

Q36. Do you agree that Masterplan Consent Areas could be a useful tool to provide more extensive planning freedoms and flexibilities in Scotland's ports? Please explain your answer.

Agree in principle. 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 MCAs could also simplify the approval processes for individual developments where they are essential to the operational development of a Port.

Assessment of Impacts

Q37. What are your views on the findings of the Update to the 2019 Sustainability Appraisal Report at Annex A? (Respondents are asked to avoid restating their views on the November 2019 and Phase 1 consultations, as these views have already been taken into account.

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

Q38. Do you have any comments on the partial and draft impact assessments undertaken on these draft Phase 2 proposals?

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

Q39. 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.