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<b>Report To: Safe Sustainable Communities Committee</b>	<b>Date: 10<sup>th</sup> March 2009</b>
<b>Report By: Corporate Director Environment and Community Protection</b>	<b>Report No: ECP/Plann/FW/09/011</b>
<b>Contact Officer: Fraser Williamson</b>	<b>Contact No: 01475 712401</b>
<b>Subject: Householder Permitted Development Rights</b>	

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## **1.0 PURPOSE**

- 1.1 The Purpose of the report is to inform Committee of proposed changes to the planning controls in respect of existing dwellinghouses and to seek approval for the response to the Consultation Paper to be submitted to the Scottish Government.

## **2.0 SUMMARY**

- 2.1 The Scottish Government have issued a Consultation Paper on proposals to relax planning controls on development relating to existing dwellinghouses thus removing the need for planning applications in these additional circumstances.
- 2.2 The main proposed changes relate to increasing the proportion of the curtilage which can be developed without the requirement for planning permission – subject to restrictions; allowing the construction of certain dormers on rear and side elevations; specific right in relation to decking and small porches; and clarifying the position in relation to distance from property boundaries and to roads.
- 2.3 An initial look at our current applications for householder developments suggest that these changes would result in a 14% drop in the number of such applications.

## **3.0 RECOMMENDATIONS**

- 3.1 It is recommended that the Committee note the proposed changes and approve the responses detailed in the Appendix as the Council's formal response to the Consultation Paper.

Fraser Williamson  
Head of Planning and Housing

## 4.0 BACKGROUND

- 4.1 As part of the Scottish Government's proposals for the modernisation of the planning system it is intended to remove a significant number of minor householder planning applications from the planning system. The aim is to allow individuals more freedom to develop their property and allow planning authorities to allocate resources to more significant developments while retaining an appropriate level of planning control.
- 4.2 A consultation paper has been issued outlining the proposed changes. Responses are required to be submitted by 13<sup>th</sup> March 2009. The majority of the proposals contained in the paper do not apply to flats or buildings containing flats. The full document can be accessed at [www.scotland.gov.uk/consultations](http://www.scotland.gov.uk/consultations).

## 5.0 PROPOSALS

5.1 Following the consultation period the proposal would be to introduce a new Householder Permitted Development Order to replace the existing permitted development rights for householder developments contained in the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (GPDO).

5.2 The main proposed changes can be summarised as follows;

- (a) increase the limit on development within the curtilage of a house from 30% to 40% of the curtilage subject to a maximum limit of 60 square metres and also providing no more than 40% of the rear curtilage is developed.
- (b) relaxing the restrictions on roof alterations on certain rear and side extensions to allow the construction of dormer extensions or other extensions which enter the roof.
- (c) introducing new rights covering decking, small porches and alterations to chimneys.

In relation to decking restrictions relate to their erection within 2 metres of the boundary of the dwellinghouse and a height limit of 1 metre. It is also proposed to allow the erection of small porches not exceeding 3 square metres outside any external door of a dwellinghouse subject to the restrictions in respect of proximity to the road and the property boundary.

- (d) introducing a single height restriction of 4 metres for separate development within the curtilage of a dwelling house.
- (e) no permitted development within 1 metre of the property boundary.
- (f) no permitted development over 1 metre in height within 5 metres of a road if it is nearer to the road than the original dwellinghouse.
- (g) additional restrictions will still apply in respect of dwellinghouses within a conservation area or the curtilage of a listed building.

5.3 The current GPDO restricts permitted development rights within 20 metres of a road and if closer to the road than that part of the original dwellinghouse nearest to the road.

While this helps to prevent developments happening in front gardens facing a street which might significantly undermine the street scene it has also prevented permitted development in other areas of the curtilage within 20 metres of a road even though there may be no adverse impact on the street scene.

- 5.4 A new approach is proposed based on the term “principal elevation” of a house. This is generally defined with reference to the door which forms the main or principal entrance to the house. The principal elevation may not be the wall of the house fronting the street on which the house is located and may not necessarily be the wall of the house which is designed as the face of the house.
- 5.5 The new proposals therefore place restrictions where a principle elevation and/or a side elevation “front a road” and development is proposed which would extend from such a wall.
- 5.6 The Consultation Paper poses a series of questions relating to the proposed changes. Those together with my comments are contained in the Appendix to this report and would form the basis of the Council’s formal response.

## **6.0 IMPLICATIONS**

- 6.1 There is concern at the lack of a clear definition of the curtilage of a dwellinghouse and also concern that increasing the limit of development to 40% could lead to over-development of small plots.
- 6.2 The maximum limit of 60 square metres for the development footprint also gives cause for concern. While other restrictions would probably limit this only to larger house plots there would appear to be no height restrictions when not close to the boundary of the property other than the height of the original dwellinghouse and this could lead to two or three storey extensions falling within the category of permitted development.
- 6.3 A quick sample of 50 householder applications submitted to Inverclyde Council in 2008 indicated that 43 would still require planning permission should the proposed amendments be introduced. This would therefore represent only a 14% reduction in the number of householder applications.
- 6.4 Legal – there are no direct legal implications arising from this report.
- 6.5 Financial – there are no direct financial implications arising from this report.
- 6.6 Personnel – there are no personnel implications arising from this report.
- 6.7 Equalities – this report has no impact on the Council’s Equality Agenda.

## **7.0 BACKGROUND PAPERS**

Scottish Government Consultation Paper – Householder.

Permitted Development Rights.

HOUSEHOLDER PERMITTED DEVELOPMENT RIGHTS

Consultation paper  
Representations from Inverclyde Council

Q1. Do you agree with this change from floor area to development footprint/ ground area?

Yes

Q2. Do you agree with the new approach to principal, side and rear elevations?

Yes

Q3. Do you believe that issues regarding road safety are sufficiently addressed by the restrictions on PDR set out in Article 3 of the draft Householder Permitted Development Order and the height limit of 1 metre within 5 metres of a road?

*When cross referenced to article 3(6)(a), yes.*

Q4. Do you agree with the overall limit on development of the curtilage (excluding the original dwelling) of 40%?

*No. This limit could lead to overdevelopment of small house plots. The reference to curtilage without a definition could lead to abuse of interpretation. The Historic Scotland Memorandum of Guidance on Listed Buildings and Conservation Areas contains extensive coverage of the different interpretations applicable.*

Q5. Do you agree with the additional limit on the development of rear curtilage of 40%?

*No, for the reasons explained in the response to question 4.*

Q6. Do you agree with an absolute limit of 60 square metres?

*While only applicable in larger house plots, and acknowledging the 50% development footprint limit, this could lead to extensions adding 120 square metres floorspace, and on occasion where there is a third storey, 180 square metres floorspace without requiring planning permission. It is acknowledged that some minor works should be excluded from the requirement to obtain planning permission, however the size of development potential now proposed could have serious amenity implications for neighbours.*

Q7. Do you agree with the additional conditions and restrictions on householder PDR in conservation areas contained in the draft Householder Permitted Development Order?

*The restrictions in conservation areas appear sufficient to protect visual amenity.*

Q8. Do you agree with the additional conditions and restrictions on householder PDR within the curtilage of listed buildings as set out in the draft householder permitted development order?

*The restrictions appear sufficient to protect a listed building and the immediate setting.*

Q9. Should there simply be no permitted development in relation to conservation areas or the curtilage of listed buildings?

*No. This would be unfair on applicants without a revision to the fees regulations. The balance between general pd rights and total withdrawal without an Article 4 Direction appears fair.*

Q10. Should additional statutory restrictions be placed on householder PDR within World Heritage Sites?

*No comment.*

Q11. If so, what level of control should be applied (e.g. similar to that for conservation areas or a total restriction)?

*No comment.*

Q12. Do you have any comments on the extent of designated areas where restrictions will apply?

*No.*

Q13. In your experience, do planning authorities treat the addition of ramps and handrails to the exterior of houses to assist the elderly or disabled people as requiring an application for planning permission?

*The combined height of the ramp and handrail above the original ground level determines whether planning permission is required. If the height exceeds 1 metre within 20 metres of a road or 2 metres where more than 20 metres from the road, then planning permission is deemed to be required.*

Q14. Do respondents believe that replacement and alteration of existing windows in flats, without altering the overall size of the window opening should be permitted development?

*As is clearly evident, the visual integrity of a building can be significantly diminished where original window styles are randomly altered. The preference is for the current regulation to remain, with appropriate investment in publicity on the requirement to obtain planning permission. As a fall back position, any relaxation should not extend to conservation areas and listed buildings.*

Q15. Do respondents believe there should be specific PDR to allow flagpoles to be erected within the curtilage of a dwellinghouse?

*The number of flagpoles are insignificant, however if erected, they have to potential to significantly impact on the streetscape. The status quo is supported.*

Q16. If so, what controls should there be on the height of flagpoles and on their location, with particular regard to designated areas?

*If restrictions are to be lifted, flagpole pd rights should be limited to garden areas behind the wall of a house fronting a road. A height restriction of 4 metres could be applied.*

Q17. For each class of the PDR:

Are the grant of permission and the restrictions and conditions clear?

- *The requirement to cross reference article 3 (6) to schedule 1 could lead to errors in assessment. Article 3(6) would be better placed within the appropriate classes of schedule 1.*
- *There remains too much open to interpretation – a precise definition of curtilage is required, and what is understood by “as far as practicable, be sited so as to minimize its effect on the external appearance of the building”?*
- *The wording in classes 1(2)(g), 1(3) and 6(2)(a – particularly iii) is confusing.*
- *Class 2(3), assumes that all roof pitches within a house are the same – this is not necessarily the case.*
- *It is assumed that in class 10, reference to the deck or raised platform does not include the handrail around it. Will the handrail be subject of assessment under class 7? Also, there is no definition of a deck – is this timber placed on the ground, or does it require to be raised?*
- *There is a requirement to define the highest part of the roof (class 12(2)(a)), as some houses have multi roofs. It is assumed that this should read “highest part of the roof where the chimney or soil pipe is provided.”*

Will these controls release a significant number of proposals from the planning application process?

- *A sample of 50 householder planning applications submitted to Inverclyde Council in 2008-9 indicated that 43 would require planning permission should the proposed amendments be introduced.*

Will these PDR provide adequate controls on amenity?

*The amended PDR facilitate the potential for significant house extensions creating overlooking, loss of daylight and increases in shadow impact. A 2 storey extension in Inverclyde which was rejected on appeal to the Scottish Ministers on grounds of unacceptable impact on neighbouring amenity would not require planning permission under the proposed amendments. The ability to change the roof material and/or colour of a semi detached and terraced house without requiring planning permission has potential to erode visual amenity. Inverclyde Council does not consider that adequate controls on amenity will be exercised.*

Are there any changes to the controls which might mean significant further reduction in planning applications without undermining amenity?

*It is noted that there are no permitted development rights within the rear courtyards of flatted buildings. The Council will continue to receive minor applications for outbuildings in such locations, but not for some substantial 2 storey house extensions. Providing restrictions are attached to restrict the placing of outbuildings in immediate proximity to windows, a relaxation for outbuildings is supported.*

Q18. Do respondents agree with the addition of requirements on drainage to PDR for new and replacement hard surfaces over an area of 5 square metres between the principal elevation and the road?

Yes.

Q19. Do respondents think the changes to permitted development rights as drafted will achieve the Scottish Government's aim of removing a significant amount of householder development from the planning application process?

*The Inverclyde sample suggests a reduction of 14%.*

Q20. If not, what particular alterations to the draft Householder Permitted Development Order might significantly reduce the number of householder planning applications?

*Extending permitted development rights to flats. The proposed class 10(2)(d)(i) will result in more applications for decking than is currently the case. Is this the intention?*

Q21. What effects might any suggested changes have on amenity issues?

*In the main, alterations to flats have an impact on visual amenity – eg replacement windows, rather than on residential amenity – eg loss of daylight, sunlight and overlooking.*

Q22. Do respondents believe that the provisions of the draft Householder Permitted Development Order pay sufficient regard to the impact on local amenity?

*The changes pay little regard to impact on residential amenity and the impact on neighbours.*

Q23. If not, what particular alterations to the draft Householder Permitted Development Order might address some or all of these issues?

*All 2 storey extensions should require planning permission, and the extent of permitted footprint extension should be reduced. Amendments to PD rights should concentrate on the plethora of minor items which can be purchased from DIY stores but in some instances require planning permission – fencing, sheds, summerhouses, small conservatories, with less differentiation between houses and flats.*

Q24. What particular issues would you like to see addressed in the guidance accompanying the changes to householder permitted development rights?

*There should be no need for guidance. Where there is any doubt, a word should be clarified in the interpretation section of the Order. The Order itself should be written in plain English. Presently, the order fails both tests.*

Q25. Are there any costs or benefits not identified in the draft RIA?

*No account has been taken of the cost to local authorities of explaining the changes in legislation to applicants and agents, of the likely increase in enforcement inquiries and of addressing aggrieved neighbours.*

Q26. If so, do you have any information or can you suggest sources of relevant information on these costs and/ or benefits?

*No.*

Q27. Are there any potential impacts on particular societal groups that we should be aware of in finalising the order?

*No.*