

**Report To:** Environment and Regeneration Committee    **Date:** 30th August 2012

**Report By:** Corporate Director Environment, Regeneration and Resources    **Report No:** E+R/12/08/08/SJ/NMcL

**Contact Officer:** N.McLaren, Development and Building Standards Manager    **Contact No:** 01475 712420

**Subject:** Scottish Government Consultation on the General Permitted Development Amendment Order 2012

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## **1.0 PURPOSE**

- 1.1 The purpose of this report is to approve a draft response to the Scottish Government's consultation on the General Permitted Development Order 2012.
- 1.2 The Town and Country (General Permitted Development) (Scotland) Order 1992 (GPDO), as amended is the primary means by which permitted development rights, an exemption from the need for a planning application, is conferred. The order grants planning permission for a variety of works and uses provided that the development complies with the limitations and conditions set out.
- 1.3 The Scottish Government is seeking views on draft legislation for a number of refinements and amendments to the non-domestic elements of the GPDO.

## **2.0 SUMMARY**

- 2.1 The consultation poses 12 questions, which were responded to as detailed in paragraphs 5.2 to 5.10.

## **3.0 RECOMMENDATION**

- 3.1 It is recommended that the Committee agrees to the draft consultation response submitted to the Scottish Government.

## 4.0 BACKGROUND

- 4.1 The Scottish Government believes that a well functioning planning system is essential to achieving its central purpose of increasing sustainable economic growth. An effective, efficient and proportionate planning system which is focused on outcomes will deliver benefits to the wider economy. This consultation is part of the renewed planning reform programme announced on 28 March 2012.
- 4.2 The Government is of the view that considering minor uncontroversial types of development is not an effective or efficient way of regulating development. Requiring planning applications, where the planning system can add little, or no value, imposes unnecessary costs and delays to development. However, if permitted development rights are set too widely then there is a risk of inappropriate development taking place.
- 4.3 The Town and Country (General Permitted Development) (Scotland) Order 1992, as amended is the primary means by which permitted development rights (PDR), an exemption from the need for a planning application, is conferred. The order grants planning permission for a variety of works and uses provided that the development complies with the limitations and conditions set out.
- 4.4 The purpose of this consultation is to seek views on draft legislation for a number of refinements and amendments to the non-domestic elements of the General Permitted Development Order (GPDO).
- 4.5 This consultation sought views by 22 June 2012.

## 5.0 CONSULTATION QUESTIONS

- 5.1 The consultation poses 12 questions:
- 5.2 The GPDO was considered under the Environmental Assessment (Scotland) Act 2005 in order to identify if a Strategic Environmental Assessment (SEA) was required. A screening process was undertaken in consultation with SEPA, Historic Scotland and Scottish Natural Heritage after which it was determined and advertised that the GPDO would not have significant environmental effects and an SEA was not required.

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

*Response: No.*

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

*Response: No.*

### **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.**

*Response: Inverclyde Council does not consider that changes to non domestic elements of the GPDO has an impact on equalities.*

- 5.3 It is proposed to amend the definition of 'industrial building' to include reference to buildings used for research and development and to amend class 25 to require that any hard standing be either of a porous material or that adequate provision is made to ensure that any water run-off is dealt with on-site. Class 26 relates to the deposit of waste material resulting from an industrial process on land which was used for that

purpose on 1 July 1948.

**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?**

*Response: No. There has been no requirement to refer to this Class in considering development in the Inverclyde Council area.*

- 5.4 Class 33 allows local authorities to carry out certain development in their areas. It is proposed to change the term 'planning authority' to 'local authority'. The Government intends to ease administrative burdens surrounding works by local authorities. It is also proposed to replace the word 'dwellings' with the 'residential development' as at present flats cannot be constructed as Permitted Development, but houses can. Planning authorities can also carry out minor works up to a certain value under PDR. The current value of £100,000 has been in place since 1992; the Government propose to increase this to £250,000 to reflect rises in inflation over the past 20 years.

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

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

*Response: No. Class 33 (c) refers to "development under any enactment". Clarification is required as to the meaning of this term.*

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

*Response: Yes.*

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

*Response: Yes.*

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

*Response: N/A*

- 5.5 It is proposed to introduce new classes of permitted development rights for the installation of charging points for electric vehicles. Wall mounted charging points within an area lawfully used for off-street parking subject to restrictions that the size of the unit is not more than 0.5 cubic metres and that it does not face onto a road within two metres are to be permitted. There are also restrictions on the size, number and position of any name plates attached to the charging point. Similar provision is also made for free standing charging points; allowing units up to 1.6 metres high subject to the restrictions that they are not within two metres of a road and that there is a maximum of one unit per parking space. The restrictions regarding name plates also apply. Development would not be permitted by either class if it is within (as applicable to Inverclyde) a site of archaeological interest, a National Scenic Area or an historic garden or designed landscape. Both classes contain a requirement that when the charging point is no longer needed, it is to be removed and, as far as is practicable, the land returned to its original condition.

**Q6. With regard to the proposed new classes 7E and 7F;**

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

*Response: Yes*

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

*Response: Yes*

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

*Response: Yes*

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

*Response: N/A*

5.6 The proposed draft order introduces permitted development rights for the extension or alteration of commercial buildings. These permitted development rights do not extend to shopping centres. Development would not be permitted if the extension or alteration would exceed the gross floor space of the original building by either 25% or 100 square metres (whichever is the lesser) or if the height of the extended or altered building would be more than 4 metres. PDR would also not extend to:

- any extension closer than 10 metres of a curtilage boundary
- development that would result in loss of parking or turning space for motor vehicles
- any development that included a balcony, veranda or raised platform
- any development that would extend beyond, or would alter, the existing shop front
- any development that is used for purposes other than that of the original shop.

Development would not be permitted by either class if it is within (as applicable to Inverclyde) a site of archaeological interest, a National Scenic Area or an historic garden or designed landscape.

PDR for the provision of free standing trolley stores within the curtilage of a retail site is also proposed. These rights are to be subject to the proviso that they do not exceed 20 square metres floor area and 2.5 metres in height, are not within 20 metres of any boundary with a residential property and are not within a Conservation Area.

**Q7. With regard to the proposed new classes 7A and 7B;**

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

*Response: Yes*

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

*Response: Yes*

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

*Response: Yes*

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

*Response: N/A*

5.7 The Government propose to introduce permitted development rights for the extension or alteration of school, college, university or hospital buildings, as well as for nursing and care homes. Development would not be permitted if the extension or alteration would exceed the gross floor space of the original building by either 25% or 100 square metres (whichever is the lesser) or if the height of the extended or altered building would be more than 4 metres. PDR would also not extend to:

- construction of an incinerator
- bad neighbour development
- any extension closer than 10 metres of a curtilage boundary
- any development which would involve loss of parking or turning space for motor vehicles
- any development which would involve loss of land
- any development that included a balcony, veranda or raised platform
- any development that would extend beyond, or would alter, the existing shop front
- any development that is used for purposes other than that of the undertaking concerned

Development would not be permitted by either class if it is within (as applicable to Inverclyde) a site of archaeological interest, a National Scenic Area or an historic garden or designed landscape.

**Q8. With regard to the proposed new class 7C;**

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

*Response: Yes*

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

*Response: Yes*

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

*Response: Yes*

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

*Response: N/A*

5.8 It is proposed to introduce permitted development rights for the extension of office buildings. Development would not be permitted if the extension or alteration would exceed the gross floor space of the original building by either 25% or 50 square metres (whichever is the lesser) or if the height of the extended or altered building would be more than 4 metres. PDR would also not extend to:

- any extension closer than 10 metres to a curtilage boundary
- any development that would involve loss of parking or turning space for motor vehicles
- any development that included a balcony, veranda or raised platform

Development would not be permitted by either class if it is within (as applicable to Inverclyde) a site of archaeological interest, a National Scenic Area or an historic garden or designed landscape.

**Q9. With regard to the proposed new class 7D;**

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

*Response: Yes*

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

*Response: Yes*

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

*Response: Yes*

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

*Response: N/A*

- 5.9 It is proposed to introduce permitted development rights for the provision of pavement cafes. Such permitted development rights will only apply to land adjoining premises within class 3 (Food and Drink) of the Town and Country Planning (Use Classes) (Scotland) Order 1997.

There are a number of limitations on this proposed class aimed at protecting residential amenity, to ensure pedestrian and road safety, and to ensure that pavements are still accessible for all. These permitted development rights do not remove any other legal or licensing requirements. In particular there may be a requirement under section 59 of the Roads (Scotland) Act 1984 to obtain the permission of the roads authority before placing anything that may cause an obstruction.

It is proposed that use of land for provision of a pavement cafe is not permitted by this class if:

- any equipment or furniture required for the pavement café is incapable of being removed when the premises are closed.
- the pavement cafe is not associated with an immediately adjoining existing premises within Class 3, Food and Drink of the T&CP Use Classes Scotland Order 1997, for consumption of food or drink on the premises (restaurant, café, or snack bar).

Development would also not be permitted where:

- the distance between the outside of the cafe area and the edge of the nearest roadway would be less than 3 metres

- the cafe area projected more than 4m beyond the frontage of the premises
- the pavement cafe would extend beyond the width of the frontage of the main property
- the cafe was not located directly in front of and visible from the main premises.

**Q10. With regard to the proposed new class 7H;**

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

*Response: No. A road as defined by section 151 of the Roads (Scotland) Act includes the pavement, but Class 7H(2)(a) does not permit a pavement café within 3 metres of a road. It is assumed that a 3 metre wide area of footpath must at all times be retained between the pavement café and the section of road used by vehicular traffic. The Class appears to restrict pavement cafes to an area directly in front of the café frontage and projecting for a distance of no more than 4 metres. Given this restriction, it is not clear why there is a requirement that the pavement café must be visible from the café.*

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

*Response: Subject to the items requiring clarification under 10(a), yes.*

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

*Response: Yes*

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

*Response: N/A*

- 5.10 It is proposed to introduce PDR for access ramps to be erected outside an external door of a non-domestic building. Scottish Building Standards require ramps to be safe. The permitted development rights in class 7G would reflect these standards.

Development would not be permitted under this class if:

- the combined length of flights forming part of the ramps would be more than 5 metres
- the combined length of flights and platforms would be more than 9 metres
- any part of the ramp would be more than 0.3 metres high, or any part of the ramp plus any wall, handrail or similar structure would exceed 1.5 metres.

Development would not be permitted by either class if it is within (as applicable to Inverclyde) a site of archaeological interest, a National Scenic Area or an historic garden or designed landscape.

**Q11. With regard to the proposed new class 7G;**

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

*Response: Yes*

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

Response: Yes

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

Response: Yes

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

Response: N/A

- 5.11 It is also proposed to introduce a number of changes on which the Government is not seeking to consult.
- 5.12 It is proposed that limited PDR for the operation of an outdoor market could be achieved by amending class 15 - Temporary use of land. The existing class 15 excludes use as an "open air market". Removing the prohibition on markets would permit their operation for up to 28 days in total in a calendar year, subject to a new requirement for there to be a licence in place for any market to qualify as Permitted Development.
- 5.13 Currently there are permitted development rights for caravan site operators to carry out development required by the conditions of their site licence. The Scottish Government is intending to consult on updating the site licensing regime as currently governed by the Caravan Sites and Control of Development Act 1960. It is proposed to make amendments in respect of hard surface provisions.
- 5.14 Whilst there is a strong desire from landowners to retain existing PDR, there was also compelling evidence presented of the damage caused by some access tracks. On balance, the Government considered that the removal of Permitted Development Rights for formation of access tracks is the appropriate option. So, the formation of a new access track would require the submission of a planning application but the maintenance of an existing track, contained within the existing track boundaries, would continue to be permitted development.

## 6.0 IMPLICATIONS

6.1 Finance: None

Financial Implications –

Cost Centre	Budget Heading	Budget Year	Proposed Spend this Report	Virement From	Other Comments
n/a	n/a	n/a	n/a	n/a	n/a

Financial Implications – Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact	Virement From	Other Comments
n/a	n/a	n/a	n/a	n/a	n/a

6.2 Personnel: None.

6.3 Legal: None.

## 7.0 LIST OF BACKGROUND PAPERS



Scottish Government – Consultation on Miscellaneous Amendments to the Planning System 2012

# Consultation on The Town and Country Planning (Scotland) General Permitted Development Amendment Order 2012



## RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

### 1. Name/Organisation

Organisation Name

Inverclyde Council

Title **Mr**

Surname

McLaren

Forename

Nicholas

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Nicholas.McLaren@Inverclyde.gov.uk

### 3. Permissions - I am responding as...

**Group/Organisation**

**(c)**

The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate  Yes

**(d)**

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

Yes

## CONSULTATION QUESTIONS

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

Comments No.

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

Comments No.

### 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.

Comments *Inverclyde Council does not consider that changes to non domestic elements of the GPDO has an impact on equalities.*

### 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?

Comments *No. There has been no requirement to refer to this Class in considering development in the Inverclyde Council area.*

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

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

*No. Class 33 (c) refers to “development under any enactment”. Clarification is required as to the meaning of this term.*

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

*Yes.*

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

*Yes.*

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

Comments *N/A*

**Part 2. Proposed new classes of permitted development.**

**Q6. With regard to the proposed new classes 7E and 7F;**

- (a) Is the granting of permission, and the restrictions and conditions, clear?  
Yes
- (b) Is the granting of permission, and the restrictions and conditions, reasonable?  
Yes
- (c) Will the controls strike the right balance between removing unnecessary planning applications and protecting amenity?  
Yes
- (d) Please identify and explain any changes to the controls that you think would strike a better balance?

Comments *N/A*

**Q7. With regard to the proposed new classes 7A and 7B;**

- (a) Is the granting of permission, and the restrictions and conditions, clear?  
Yes
- (b) Is the granting of permission, and the restrictions and conditions, reasonable?  
Yes
- (c) Will the controls strike the right balance between removing unnecessary planning applications and protecting amenity?  
Yes
- (d) Please identify and explain any changes to the controls that you think would strike a better balance?

Comments *N/A*

**Q8. With regard to the proposed new class 7C;**

- (a) Is the granting of permission, and the restrictions and conditions, clear?  
Yes
- (b) Is the granting of permission, and the restrictions and conditions, reasonable?  
Yes
- (c) Will the controls strike the right balance between removing unnecessary planning applications and protecting amenity?  
Yes
- (d) Please identify and explain any changes to the controls that you think would strike a better balance?

Comments N/A

**Q9. With regard to the proposed new class 7D;**

- (a) Is the granting of permission, and the restrictions and conditions, clear?  
Yes
- (b) Is the granting of permission, and the restrictions and conditions, reasonable?  
Yes
- (c) Will the controls strike the right balance between removing unnecessary planning applications and protecting amenity?  
Yes
- (d) Please identify and explain any changes to the controls that you think would strike a better balance?

Comments N/A

**Q10. With regard to the proposed new class 7H;**

- (a) Is the granting of permission, and the restrictions and conditions, clear?  
  
*No. A road as defined by section 151 of the Roads (Scotland) Act includes the pavement, but Class 7H(2)(a) does not permit a pavement café within 3 metres of a road. It is assumed that a 3 metre wide area of footpath must at all times be retained between the pavement café and the section of road used by vehicular traffic. The Class appears to restrict pavement cafes to an area directly in front of the café frontage and projecting for a distance of no more than 4 metres. Given this restriction, it is not clear why there is a requirement that the pavement café must be visible from the café.*
- (b) Is the granting of permission, and the restrictions and conditions, reasonable?  
  
*Subject to the items requiring clarification under 10(a), yes.*
- (c) Will the controls strike the right balance between removing unnecessary planning applications and protecting amenity?  
Yes
- (d) Please identify and explain any changes to the controls that you think would strike a better balance?

Comments N/A

**Q11. With regard to the proposed new class 7G;**

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

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

Yes

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

Yes

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

Comments *N/A*