

Consultation Response Form

Proposed Changes to Householder Permitted Development Rights

We want your views on our proposals for amendments to householder permitted development rights in Wales. Your views on the draft text for the subsequent Amendment Order and draft Technical Guidance document are also sought.

Please submit your comments by Tuesday 15 February 2011.

If you have any queries on this consultation, please email: planconsultations-a@wales.gsi.gov.uk or telephone Dion Thomas on 029 2082 3479 or Jan Dominguez on 029 2082 5014.

Data Protection

Any response you send us will be seen in full by Welsh Assembly Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Assembly Government staff to help them plan future consultations.

The Welsh Assembly Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tick the box below. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Assembly Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Proposed Changes to Householder Permitted Development Rights		
23 November 2010 - 15 February 2011		
Name	Roisin Willmott	
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Type <i>(please select one from the following)</i>	Businesses	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input checked="" type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree that Part 1 to the GPDO for Wales should be changed to allow householders greater freedom in developing their property?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

We support the principle of reducing the volume of minor planning impacts which have no negative impacts on neighbours or neighbourhoods. This will enable local planning authorities to target their resources more effectively.

However, any new arrangements should be able to pass the tests for conditions set out in Circular 35/95. These tests are: Necessary; Relevant to planning; Relevant to the development permitted; Enforceable (that is, inter alia, enforceable without intrusive or time consuming surveillance); Precise; and Reasonable.

We have concerns with the use of new terms introduced, including: 'principal elevation', 'relevant part', 'rear wall', 'side elevation', 'width' of a house, 'side edge of a wall', 'similar appearance', 'eaves', 'relevant structure', 'verge', and the term 'porous' used without specifying porosity tests. Similar terms used have lead to contradictory decisions and interpretations by inspectors in England, despite the publication of a technical guide. The number of such appeals cited on www.planningjungle.com suggests that planning officers and householders spend much time and effort trying to interpret the law. Planning officers' time spent in this way is not available to encourage the development of land in the public interest, and would be contrary to one of the key aims of the introduction of these new PD rights. We are concerned that this will lead to an increase in the length of time and complexity of dealing with enquiries regarding potential applications / PD and also with enforcement cases.

We would propose that the terminology used is revised to either existing terminology or the accompanying guidance is explicit in the meaning behind the terminology, for example it is clear what is meant by 'principal elevation' as a property may have more than one principal elevation.

Q2	Do you agree with the proposed restrictions for householder permitted development rights within World Heritage Sites?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Yes, we believe that permitted development should be restricted with World Heritage Sites, as it is in other designated areas.			

Development Class A

Q3 (a)	Do you agree with the proposed restrictions and conditions for householder extensions in Development Class A? If not, please specify your reason(s) and provide alternative restrictions / conditions.	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>Please see the comments in Q1 regarding the use of terminology, for example principal elevation.</p> <p>There should be guidance regarding flat rooves and the presence of eaves; appeal decisions in England have recently been contradictory with regard to whether eaves apply to flat rooves.</p>			

Q3 (b)	Do you agree with the proposed interpretations provided in the draft Amendment Order for Development Class A? If not, please specify your reason(s) and provide alternative interpretations.	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>Please see the comments in Q1 regarding the use of terminology, for example 'principal elevation'.</p> <p>A.1 d -we would favour the format 'would be nearer a highway...' in the existing GPDO than the proposed format which requires interpretation of 'front' and 'the principal elevation or a side elevation'.</p> <p>Who will determine which dimension of a house is its 'width', and which its 'length'? What is meant by the 'side edge of a wall'? Walls have sides and ends, but do they have edges?</p> <p>Conditions A.3(a) The expression 'similar appearance' is not precise. We would suggest use of wording such as that used by the The Isle of Man 2005 permitted development order requiring that the finish on the external wall of an extension "must match that on the major part of the dwellinghouse".</p>			

Development Class B

Q4 (a)	Do you agree with the proposed restrictions and conditions for roof extensions in Development Class B? If not, please specify your reason(s) and provide alternative restrictions / conditions.	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>(c) The condition on roof pitch is welcomed. We would also recommend consideration of adding a requirement for roof materials to match those on the main roof.</p> <p>As set out in Q3 above, there should be guidance regarding flat rooves and eaves.</p>			

Q4	Do you agree with the proposed interpretations provided	Yes	No
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(b)	in the draft Amendment Order for Development Class B? If not, please specify your reason(s) and provide alternative interpretations.	<input type="checkbox"/>	<input type="checkbox"/>
Comments: See comments above.			

Development Class C

Q5	Do you agree with the proposed restrictions and conditions for roof alterations in Development Class C? If not, please specify your reason(s) and provide alternative restrictions / conditions.	Yes	No
(a)		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: The condition on roof pitch is welcomed. We would also recommend consideration of adding a requirement for roof materials to match those on the main roof.			

Q5	Do you agree with the proposed interpretations provided in the draft Amendment Order for Development Class C? If not, please specify your reason(s) and provide alternative interpretations.	Yes	No
(b)		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: See above.			

Development Class E

Q6	Do you agree with the proposed restrictions for curtilage developments in Development Class E? If not, please specify your reason(s) and provide alternative restrictions / conditions.	Yes	No
(a)		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: 1 (a) Many houses have large gardens - sometimes several hectares. 50% of the curtilage could be an enormous and intrusive single storey building. we would recommend consideration of adding a maximum floor area - at least for 'Article 1.5 land'. Development in the rear of buildings within Conservation Areas, should not be extended these PD rights. Class E (b) Permitted development rights for gas tanks are welcomed.			

Q6	Do you agree with the proposed interpretations provided	Yes	No
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(b)	in the draft amendment Order for Development Class E? If not, please specify your reason(s) and provide alternative interpretations.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:			

Development Class F

Q7	Do you agree that all new and replacement hard surfacing should be subject to the proposed porous restriction (i.e. porous materials are used or provision is made to direct any water run-off to a surface or area that allows the water to drain naturally) and that they must be permanently maintained? If not, what alternative approach would you suggest.	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>We welcome the introduction of the requirement for planning permission for non-porous surfacing; however we would recommend specifying a measure of porosity.</p> <p>Guidance to Local Planning Authorities on how to consider planning applications for non-porous surfacing would be welcomed; i.e. in what circumstances would it be permissible?</p> <p>Class F (b) 'Maintenance and improvement' to an existing drive is also allowed by Part 9 'Repairs to unadopted streets and private ways'. There appear to be no conditions requiring porous surfaces in Part 9.</p> <p>Condition F1 fails the tests for conditions set out in Welsh Office Circular 35/95. It is unenforceable in respect of 'replacement', unless and until Part 9 be amended. It duplicates the provisions of Schedule 3 of the Flood and Water Management Act, 2010. Paragraph 22 of the Circular advises: "A condition which duplicates the effect of other controls will normally be un-necessary, and one whose requirements conflict with those of other controls will be ultra vires because it is unreasonable."</p>			

Development Class G

Q8	Do you agree with the proposed restrictions for the	Yes	No
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(a)	installation, alteration or replacement of a chimney, flue or soil and vent pipe on a house in Development Class G? If not, please specify your reason(s) and provide alternative restrictions.	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comments			

Q8	Do you agree with the proposed interpretation provided in the draft amendment Order for Development Class G? If not, please specify your reason(s) and provide an alternative interpretation.	Yes	No
(b)		<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comments			

Draft Technical Guidance Document

Q9	Do you have any comments to improve the draft Technical Guidance document at Annex 2? If so please specify the improvements you wish to see.	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: The length and complexity of the document does question whether this will reduce the level of work for local planning authorities, or whether there would be an increase in the number of initial enquiries / lawful development certificates, appeals and even enforcement action. The current proposals seek to simplify the definition of permitted development rights by introducing criteria of two-dimensional measurement and the removal of cumulative volume calculations. This approach may be welcomed but, as presently framed, introduces definitions open to broad interpretation. There also appears to be an over-provision of different criteria where fewer measures, or different measures, would be more effective. While the proposed system may be a step in the right direction, further refinement, clarity and simplification are required to avoid uncertainty, confusion and opaqueness. We would recommend looking at the recent amendments to PD rights in Scotland, to see the effects that resulted from similar changes.			

Draft Regulatory Impact Assessment

Q10	Do you have any comments to make about the draft Regulatory Impact Assessment at Annex 3?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:			

Q11

We have asked a number of specific questions throughout this consultation. If you have any related queries or comments which we have not specifically addressed, please use this space to report them:

The fee regime could be used to respond to new circumstances by increasing fees for Certificates of Lawful Development.

I do not want my name/or address published with my response (please tick)

How to Respond

Please submit your comments by Tuesday 15 February 2011, in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-a@wales.gsi.gov.uk [Please include 'Proposed Changes to Householder Permitted Development Rights Consultation – WAG10-10530' in the subject line]
Post
Please complete the consultation form and send it to: Proposed Changes to Householder Permitted Development Rights Planning Improvement Branch Planning Division Welsh Assembly Government Cathays Park Cardiff CF10 3 NQ
Additional information
If you have any queries on this consultation, please Email: planconsultations-a@wales.gsi.gov.uk Telephone: Dion Thomas on 029 2082 3479 or Jan Dominguez on 029 2082 5014