



David Reekie
Scottish Government
Planning Legislation and Performance
2J (South)
Victoria Quay
EDINBURGH
EH6 6QQ

Email to: GPDOConsultation@scotland.gsi.gov.uk

6 July 2011

Dear David

Consultation on Non-Domestic Elements of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992

The Royal Town Planning Institute is grateful for the opportunity to respond to the above consultation paper. The RTPI is the UK body chartered to represent the planning profession and offers these comments from the point of view of a diverse and politically-neutral professional body committed to supporting devolved government in Scotland. The Institute has approximately 2200 members in Scotland, working across all sectors of central government, local government, government agencies, the voluntary sector, private consultancy, the development industry and higher education.

The RTPI in Scotland, through its Scottish Executive Committee, is responsible for working with government and public bodies generally for the improvement of the planning system in Scotland. This is in accordance with its charter obligation to work for the public interest.

The Institute's detailed responses to the questions set out in the consultation paper are given in full in Annex 1 of this letter. The Institute appreciates the desire to take out of the planning process minimalist and limited-impact developments, and has always argued that good planning is a necessity for, not a barrier to, sustainable economic growth: but such 'simplification' needs to be done within the context of the creation of great places, in themselves providing positive opportunities for economic growth.

The Institute trusts that its comments are of assistance, and has no objection to them being made available to the public in the usual way. If you wish any clarification or further assistance, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in brown ink, appearing to read "Craig McLaren". The signature is stylized with a large initial "C" and "M".

Craig McLaren
National Director

Annex 1

Consultation on Non-Domestic Elements of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992

Response of the Royal Town Planning Institute in Scotland

General Points

All development, permitted or otherwise, should incorporate the principles of sustainable development as defined in Scottish Planning Policy.

It is stated (Para 5) that the central purpose of Scottish Government is increasing sustainable economic growth. The full Purpose is *“To focus Government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth.”* This should be referenced.

Background

Para 6

If Permitted Development Rights (PDR) are set too widely then inappropriate development will undoubtedly occur.

Para 7

There seems to be something missing from the first sentence here. Planning permission is not granted, but rather certain developments are exempted from the need for an application for planning permission.

Para 8, First bullet point

This refers surely to the *restriction* of PDRs. It should read

- to keep effective control over developments which, because of *economic*, environmental *or social* consequences or relationships with other uses...

Business and Regulatory Impact Assessment

Q1. Can you identify likely costs and benefits associated with the potential changes discussed in this paper which should be covered in the BRIA?

No comment.

Strategic Environmental Assessment (SEA)

Q2. Please provide details of any significant environmental effects (positive or negative) which you think may arise in relation to the potential changes discussed in this paper.

There should be an Environmental Report, addressing and informing these matters, as part of this consultation, notwithstanding the fact that this is a preliminary consultation.

Equality Impact Assessment

Q3. Please provide details of any specific issues for any of the equality groups (including race, disability, age, sexual orientation, gender or religion and belief) which you think may arise in relation to the potential changes discussed in this paper.

No comment.

EMERGING ISSUES

Para 21

Sustainable Development, definition and principles, should be mentioned here.

Para 24

Some form of draft design advice, perhaps as supplementary design guidance to Designing Streets, would be helpful in giving adequate consideration as to whether and in what circumstances electrical vehicle charging points might be the subject of PDRs.

Para 26

Some attention must be given to a common definition of *porous*.

Climate Change, Flood Risk Management & Disability Access

Q4. What types of technology, equipment, structures or related developments should be considered for PDR to support climate change / flood risk management or disabled access?

Q5. Are there any particular classes, within the 1992 Order, where the controls do not strike the right balance between meeting the above obligations and the purpose of PDR?

See comments above.

INFRASTRUCTURE

Aviation

Q6. Do the restrictions on PDR for Aviation (in particular Classes 44 and 52) strike the right balance between removing unnecessary planning applications and allowing appropriate control over the wider impacts of development?

There should be no expansion of PDRs for aviation, and certainly not over such matters as terminal buildings or car parking facilities. Climate change impacts could be added to the local effects mentioned here.

Para 35

Planning authorities should be able to request applications where they are concerned about PDRs on notification of a proposal.

Para 38

None of the work identified here should be PD.

Harbours

Q7. Do the existing controls on PDR for developments within harbours strike the right balance between removing unnecessary planning applications and protecting amenity?

Such harbours are the first points of entry for many people as well as goods to Scotland, and should be properly and carefully well-designed. Any new development must be sustainable in economic, environmental and social terms. Many, probably most, harbours have significant tourist interest (which should be promoted as part of sustainable economic growth) as well as their more everyday economic, environmental and social functions. There should be no PDRs for elements outwith operational harbour (or indeed airport) land. There may be a case for a system of notification so that planning authorities can require a planning application where they see fit. There may also be some potential for the amalgamation of harbour consents into the planning system.

Charging Infrastructure for Electric Vehicles

Q8. Would such PDR, restrictions and conditions be clear and reasonable for wall mounted outlets, upstands and feeder pillars?

Some form of draft design advice, perhaps as supplementary design guidance to Designing Streets, would be helpful in giving adequate consideration as to whether and in what circumstances electrical vehicle charging points (EVCPs) might be the subject of PDRs. This is an area where developments are fast-moving: in a recent response to an English consultation the Institute referred to the possibility of 'energy trees' which generate solar and wind renewable energy and dispense it via an EVCP. As a general rule the Institute would prefer EVCPs to be the subject of planning permission, that is not to have PDRs, for an initial period until design guidance is prepared and operates for a period of not less than five years.

Q9. Is such clarification of Class 30 on minor developments by local authorities clear and reasonable?

See response to Q8.

Q10. Should there be a deemed advertising consent for nameplates on charging points with the suggested restrictions?

The charging points should be minimalist in nature. If a (single) nameplate must be provided it should be limited in size, as suggested, and should only carry contact details and name of the charging point provider. There should be no additional advertising clutter associated with the EVCPs.

**COMMERCIAL AND RETAIL
Industrial and Warehouse Development**

Q11. Do you think that we should clarify that Class 23 (Industrial and Warehouse Development) of the GPDO includes research and development?

Yes

Q12. Do you think that we should grant PDR for the construction of new buildings in relation to industrial and warehouse development?

PDRs for a new building should be conditional on its being no nearer the property boundary than the existing buildings. New PDRs should not apply within Conservation Areas or World Heritage Sites, Inventory Gardens or Designed Landscapes, Inventory Battlefields, or their settings. Extension heights should be limited to the eaves of the existing building.

Q13. Do you think that PDR for hard surface in Class 25 should include requirements for disposing of surface water?

No. The disposal of surface water should be controlled from the start, not reliant on planning enforcement tackling problems once they have occurred..

Q14. Do the existing controls on PDR for Industrial and Warehouse Development strike the right balance between removing unnecessary planning applications and protecting amenity?

Yes.

Institutions (schools, universities, colleges, hospitals, care homes)

Q15. Do you agree that we should extend permitted development rights for schools, universities, colleges, hospitals, council-run care homes and other council buildings?

New PDRs should not apply within Conservation Areas or World Heritage Sites, Inventory Gardens or Designed Landscapes, Inventory Battlefields, or their settings. Extension heights should be limited to the eaves of the existing building. It will be important to clarify the definitions of *council-run care homes and other council buildings*: there should be no new carte blanche PDRs for council-run or council-owned buildings since councils should not be able to be accused of giving themselves planning permission. Where PDRs for developments up to £100000 currently exist for Councils, consideration might be given to reflecting inflation in a revised figure.

Offices

Q16. Do you think that we should have PDR for office extensions?

These should be no higher than to the eaves of the existing building, the materials should match in specification and detailing, and they should not be PD in a Conservation Area, World Heritage Site, IGDLIS site, Inventory Battlefield or their settings. There may be an argument that within business parks a more liberal regime of PDRs could be established, and although this could be difficult to do in practice, the Institute would be happy to discuss further such a possibility.

Pavement cafes

Q17. What sort of activities under the heading of 'pavement cafes' should be considered for PDR (e.g. pubs, restaurants, mobile refreshment stalls) and what sort of PDR and related controls should apply?

Generally it may be better to consider that such pavement cafe use is not development, unless of course there are permanent features of occupation. Given this, there should be no need for PDRs for such activities. Considerations of health and safety, access, visual appearance, rates, rents and the like should apply in any consideration of licensing the use of the footpath, but other factors to bear in mind might include the impact on the character and appearance of the area, and particularly the architectural qualities of the building.

Shops

Q18. Do you agree that PDR should allow shops, banks, pubs, restaurants and other similar businesses to enlarge their premises?

Any enlargement must still maintain the level of amenity in the area. If any PDRs are proposed these should be to 10% of existing floorspace or 50m², whichever is the lesser, and there should be no PDRs for pubs or hot food shops, nor for shops and similar which are elements within larger blocks, particularly where there are residential flats. Any trolley stores should relate only to car parks owned by and dedicated to the retail operation in question.

CARAVANS

Para 67

PDRs should not apply to campsites. There should be reference in and link from the GPDO to the 1960 Act. The definition of a caravan should be made clearer and more restrictive since it appears that what is, in effect, a bungalow can qualify at present, and that seems simply wrong: if it is not possible to produce a satisfactory definition then PDRs linked to the 1960 Act should be withdrawn or restricted.

Q19. Do the controls on PDR for caravans strike the right balance between removing unnecessary planning applications and protecting amenity?

See above.

FARMERS' MARKETS

Q20. Should there be PDRs for open air markets where an operators licence has been obtained from the local authority?

Licences for farmers' markets should only be granted for the direct sale of produce (largely food) produced locally on farms: a working definition of 'locally' in this case might be 'from the area between the location of the market and the nearest market town'. Were such licences to exist they could then be treated as removing any need for planning permission, in effect extending PDRs to the farmers' market operation.

HILL TRACKS

Para 77

Modern hill tracks are rarely required for agricultural practices – these will already exist in most places. Inappropriately sited vehicle tracks certainly can and will have detrimental impacts on the visual landscape and the environment generally. This is nowhere more true than in upland locations or where wild land areas are significantly unspoilt, and indeed as cited there are a number of good reasons as to why, how and where the worst of these eyesores can, with considerable time, resources and care, be restored.

Para 79

Planning permission is required for access to windfarms or hydroelectric schemes, and the Institute believes that novel agriculture- or forestry-related road/track schemes should also require Planning Permission. There should be no PDRs in connection with field sports, where the long walk in should be an important aspect of the sporting experience.

Para 82

The Institute prefers the approach taken by the Heriot-Watt research and does not consider it unduly restrictive, given the economic, environmental and social value of the landscape resource being managed.

Para 85

It seems anomalous that the Forestry Commissioners screen proposals and give consent.

Para 87

National Scenic Areas require to have Conservation Management Plans, perhaps as Supplementary Planning Guidance, to enable clear decisions to be taken with regard to agricultural and forestry operations. In the absence of such Management Plans there should be no PDRs for roads and hill tracks.

Q21. Do the existing controls on PDR in designated areas strike the right balance relating to the formation of private roads and ways?

See comments on Paras 77-87 above.

Para 89

The Institute prefers the straightforward approach set out in the first bullet point.

Q22. Is there an approach or combination of approaches that would ensure the majority of the hill tracks of concern were subject to a consent procedure? If so can

you suggest definitions for terms such as 'hill tracks' or the locations (e.g. 'semi-natural areas', 'open hill land') where they occur?

The Institute believes that generally they should all require planning consent: tracks and roads genuinely required for agricultural purposes will almost all already exist.

Para 90

There should be no PDRs for the *improvement* of a private road or way. It would be helpful if clarification can be provided as to the distinction between *repair and maintenance* and *improvement*.

Q23. Would a restriction of the PDR for the improvement of private roads and ways help address the concerns about hill tracks? If so, what form should the restriction take?

There should be no PDRs for the *improvement* of a private road or way.

WASTE MANAGEMENT

Q24. Would it be appropriate to have PDR for any types of waste management facilities? Are there types of waste management facilities for which it would be inappropriate to have any PDR and, if so, why.

The Institute considers that the provision of waste management facilities should be considered within the Development Plan and should require planning permission.

Q25. What sort of issues would PDR have to address that would not be addressed by WML and the PPC regimes or by other legislation?

No comment.

Q26. Do you have any comments on this proposal to clarify the PDR on temporary structures required during building operations?

There should be limits on the levels of noise and dust pollution at or above which planning consent will be required: this should especially be the case where the land in question is outwith the site of the development. There should be no loss of local amenity, particularly outside normal working hours.

Para 97(a), last bullet point

- *Not applicable in a Conservation Area, nor in a World Heritage Site, National Scenic Area, National Park, Scheduled Monument, IGDLIS site, or Inventory Battlefield, and their settings.*

Para 97(c)

Litter fencing should not be subject of PDRs. The temporary storage of topsoil and restoration materials up to 3m high should be part of a restoration scheme approved, separately funded and date-limited at the time of the planning consent for landfill: there should be no PDRs for such movement and positioning of materials.

Q27. Would such PDR, restrictions and conditions be clear and reasonable for waste storage containers, waste processing facilities and landfill sites?

See comments in response to Para 97 above.

Consultation on Non-Domestic Elements of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992



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

Royal Town Planning Institute in Scotland

Title Mr Ms Mrs Miss Dr Please tick as appropriate

Surname

McLaren

Forename

Craig

2. Postal Address

18 Atholl Crescent

Edinburgh

Postcode EH3 8HQ

Phone 01312299628

Email scotland@rtpi.org.uk

3. Permissions - I am responding as...

Individual

/

Group/Organisation

Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate Yes No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick **ONE** of the following boxes

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(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 No

(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 No