



Changes to Permitted Development

*Consultation Paper 2:
Permitted Development
Rights for Householders*



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Permitted Development
Rights for Householders*

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Section 1

Introduction

Background

1. This consultation paper sets out the Government's proposals for changes to the planning system in relation to householder permitted development. Permitted development is development that can be undertaken without the need for a planning application to be submitted to the local planning authority. The reason for this is that planning permission for certain types of generally smaller-scale or uncontentious development is set down nationally through provisions in the Town and Country Planning (General Permitted Development) Order 1995 (GPDO).
2. The paper explains the changes proposed to extend and clarify the scope of permitted development for householders. The revised system would deliver a more permissive regime than exists at present and remove the need for a planning application in many cases. It will also set out clearly what is and is not permitted – an existing source of frustration amongst local planning authorities as well as members of the public.
3. This paper follows on from a separate consultation paper on proposals relating to the extension of permitted development to householder microgeneration that was published on 4 April this year.

Summary of Approach in the Consultation Paper

4. This consultation paper deals with proposals in relation to permitted development rights for householders in England only.
5. Section 2 of this consultation paper sets out the context within which this work has taken place. This began with the work of the Householder Development Consents Review which considered how the experiences of the householder seeking to carry out work on their property could be improved. It then explains about the work undertaken by White Young Green (WYG) for Communities and Local Government on householder permitted development and how this has formed the basis for the proposals contained in this consultation paper. The WYG report is available on the department's website at <http://www.communities.gov.uk/consultations>
6. Section 3 addresses some of the more general issues that need to be borne in mind when considering the scope for householder permitted development. The issues covered relate to factors that generally apply across the types of householder development, for example, how certain designated areas such as conservation areas or National Parks should be treated.
7. Section 4 deals with each of the types of development in turn – based upon the Classes of householder development contained in the GPDO. It gives a brief introduction to existing rights, highlights issues and spells out the Government's proposals in terms to the scope of permitted development and the reasons for them.
8. Annex 1 is a table summarising the proposals contained in the consultation paper alongside the existing permitted development rights.

9. Annexes 2 and 3 contain partial regulatory impact assessments (RIAs). These assessments seeks to address potential impacts resulting from the proposals and are required as part of the process leading to the introduction of new regulation. The RIA at Annex 2 relates to the general proposals on householder permitted development and the RIA at Annex 3 to the more specific proposals in Section 3 regarding the removal of permitted development rights and compensation. The assessments will necessarily develop to reflect changes resulting from the outcome of this consultation, but any comments on the partial RIAs would be welcome – particularly in relation to the quantification of costs and benefits and impacts on particular groups, for example, small businesses.
10. Annex 4 contains an initial race equality impact assessment (REIA) for the permitted development proposals set out in this consultation paper. Public authorities are required to set out their arrangements for assessing, and consulting on, the likely impact of their proposed policies on the promotion of race equality. REIAs are the mechanism for such assessment and consultation.
11. Annex 5 provides a summary of the specific questions contained in the consultation paper. To ease analysis of consultation responses, consultees are encouraged to use this as a template for their response to the consultation. A Word version of this Annex is available alongside the consultation paper on the department's website at: www.communities.gov.uk/consultations.

Responding to the Consultation

12. Comments on the contents of this paper should be sent to:

Householder Development Consultation Responses
Communities and Local Government
Zone 3/J5
Eland House
Bressenden Place
London
SW1E 5DU

Or by email to: householderconsents@communities.gov.uk

13. The period of public consultation will last for 12 weeks and responses should be submitted to arrive by 17 August 2007.
14. A summary of responses to this consultation will be published within three months of the close of consultation on the department's website www.communities.gov.uk. Paper copies will be available on request.
15. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).
16. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you

regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

17. The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Statement of Consultation

18. The Government has adopted a code of practice on consultations. The criteria below apply to all UK national public consultations on the basis of a document in electronic or printed form. They will often be relevant to other sorts of consultation.

19. Though the criteria have no legal force, and cannot prevail over statutory or other mandatory external requirements (e.g. under European Community Law), they should otherwise generally be regarded as binding on UK departments and their agencies, unless Ministers conclude that exceptional circumstances require a departure.

- 1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.**
- 2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.**
- 3. Ensure that your consultation is clear, concise and widely accessible.**
- 4. Give feedback regarding the responses received and how the consultation process influenced the policy.**
- 5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.**
- 6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.**

The full consultation code may be viewed at
www.cabinet-office.gov.uk/regulation/Consultation/Introduction.htm

20. Are you satisfied that this consultation has followed these criteria? If not, or if you have any other observations about ways of improving the consultation process, please contact:

Albert Joyce
 Communities and Local Government Consultation Co-ordinator
 Zone 6/H10
 Eland House
 Bressenden Place,
 London, SW1E 5DU;

Or email: albert.joyce@communities.gov.uk

Section 2

Background to the Proposals

21. The Householder Development Consents Review (HDCR) was launched in January 2005 as part of the then Office of the Deputy Prime Minister's 5 Year Plan: *Sustainable Communities: Homes for All*. The review examined ways of reducing bureaucracy for householders seeking to improve their homes while protecting the interests of neighbours, the wider community and the environment.
22. Les Sparks and Emrys Jones undertook a study¹ for the Review to advise whether categories of development that require planning consent are those that are most likely to impact on neighbours and the wider environment. Sparks and Jones found that several categories of development require a planning application even though they have little or no impact beyond the host property and recommended that the system should be reformed using an impact approach which would be based upon the height of a proposal and its proximity to the plot boundary. The further work being undertaken in relation to householder development, for both microgeneration and more broadly, is based on the notion of an impact approach to permitted development. The HDCR Steering Group's Report, published in July 2006, made 11 recommendations. As a first stage in responding, the department decided to examine how to reform Parts 1 and 2 of the GPDO, which cover what householders can already do to their homes without the need to apply for planning permission .
23. Ministers made clear that three important principles must underpin this work:
 - clear and robust arrangements should be in place so that the interests of neighbours and the wider community and environment are sufficiently protected.
 - changes to current arrangements should be based on evidence and fully tested.
 - there should be full consultation on detailed proposals for taking forward the Review's recommendations.
24. In advance of taking forward the work on householder permitted development rights more generally, the department contracted Entec Ltd to review the provisions of the GPDO in relation to the installation of microgeneration technology and the operation of those provisions. Using an impact approach, Entec were asked to make detailed recommendations as to how the GPDO could be amended in a way which is consistent with the protection of residential amenity whilst facilitating the installation of microgeneration equipment by householders. As stated previously, a consultation paper containing proposals on permitted development rights for microgeneration was issued on 4 April this year.
25. As Entec informed the Government's proposals for microgeneration, so WYG were asked to examine the scope for revising householder permitted development more broadly. Generally, the Government supports their recommendations which would deliver a more permissive regime (reducing householder applications for planning permission by about a quarter) whilst protecting the interests of others. This consultation paper summarises their approach and seeks responses on the particular questions posed in this paper. However, it is not intended to explain fully the thinking behind WYG's approach or their specific recommendations. Consultees wishing to make detailed comments on the proposals should therefore read this alongside the full WYG report.

8 ¹ *The Householder Development Consents review – Appendix 1: Making the System More Proportionate* can be found at www.communities.gov.uk/index.asp?id=1501262

Section 3

General Issues for Householder Development

26. This section discusses a number of general issues that are relevant when considering the possible future approach to be taken for householder permitted development rights. These, in turn, then impact on the more detailed recommendations as to what should be permitted in relation to the individual categories of development, for example, extensions or outbuildings.
27. The consultation paper seeks views on both the general issues covered in this section and how these have then been translated into the individual recommendations contained in Section 4.

An Impact Approach

28. As stated previously, perhaps the key recommendation to emerge from the work of the HDCR was that future permitted development rights should be informed primarily by the potential impact on others, for example, by overshadowing. A starting point would be that the planning system should not be there to regulate development that has no impact beyond the host property. It is also explicitly acknowledged that the current framework of householder permitted developments rights can not only be unclear and confusing, but, by using a sometimes somewhat arbitrary size and volume-based approach, anomalous in terms of impact as to what is and is not permitted.
29. The approach does not, however, suggest that anything that anyone could possibly object to should require an application for planning permission. Rather it seeks to assess the level of impact in terms of its scale and the extent to which any impact would be felt. It is accepted that this will never be viewed as being entirely objective by everyone.

Question 1 – Do you agree with the principle of an impact approach for permitted development?

Protection for Designated Areas

30. An approach based on impact necessarily recognises that the type of development permitted should reflect not only what the development is, but where it is – and not just in terms of its positioning in relation to the property, but also in terms of the area within which that property sits. The existing householder permitted development rights already protect certain designated areas, namely National Parks, areas of outstanding natural beauty (AONBs), conservation areas and the Broads, by having different permitted development rights for them. In the GPDO these areas are referred to as “article 1(5) land”. For simplicity, they will generally be referred to as “designated areas” in this consultation paper.
31. WYG’s overall conclusion was that these areas “should not be grouped together as they are in the present GPDO as each has different pressures and threats”. This is based on the fact that these areas are designated for different reasons. Conservation areas are protected because of their architectural or historic interest, other designations because of the need to protect the natural beauty of the landscape.

32. Therefore, because householder development potentially impacts more on the architecture of the building rather than that of the surrounding landscape, WYG argue that conservation areas should generally be offered a higher level of protection than other designated areas.
33. While the Government can appreciate the reasoning behind WYG’s proposed approach, it believes a cautious approach should be taken in relation to any relaxation of existing protections in these areas given that it is at least arguable that development, even at the householder level, can have a more significant impact on the wider environment in these sensitive areas. Therefore, the Government is proposing that the restrictions proposed by WYG for conservation areas should apply equally to other designated areas.
34. In addition, the White Paper issued in March by the Department for Culture, Media and Sport, *Heritage Protection for the 21st Century*, proposes that similar restrictions will apply to World Heritage Sites as other sensitive areas. The references to “designated areas” in this consultation, therefore, include World Heritage Sites.
35. The Government does, however, particularly welcome the views of consultees on this issue.

Question 2 – Do you agree with a restriction on development facing onto and visible from a highway in designated areas?

Question 3 – Should the restriction apply in the same way to all types of designated area?

Listed Buildings

36. A listed building is one that is considered to be “of special architectural or historic interest”. There exists additional legislative provision to that contained in the Town and Country Planning Act 1990, in the Planning (Listed Buildings and Conservation Areas) Act 1990, to ensure their protection. Importantly this includes an additional requirement to obtain Listed Building Consent for works that could potentially affect a listed building. This is in addition to any other planning consent that might be required.
37. Given the protection afforded through the existing requirement for Listed Building Consent approval for any work to, or near, a listed building that could have an impact on that building, the Government believes that the existing safeguards are adequate to protect the character of listed buildings from insensitive development. The Government proposes, therefore, that there is no need to make special provision through the GPDO for listed buildings in relation to what is or is not permitted.

Basements

38. WYG undertook some initial work on permitted development rights in relation to basements. Further work is being undertaken with local planning authorities to test possible limitations. The Government intends to consult separately on this issue at a later date.

Flats

39. A little work was also undertaken in relation to flats. At the moment, the householder permitted development rights contained in Part 1 of Schedule 2 to the GPDO do not apply to flats. The issues, however, are significantly more complex than those for basements and a further study will be undertaken to take this work forward. Government will, of course, consult on future proposals.

Local Development Orders (LDOs)

40. WYG are also preparing a model Local Development Order (LDO) illustrating how local authorities might use this existing power to extend permitted development rights locally in an acceptable way. This too will be made public in due course and comments invited on its suitability for this purpose.

Compensation

41. Whilst the proposals contained in this consultation paper generally provide for a more permissive system, some development will cease to be permitted development under these proposals, for example, overlarge dormer windows. Section 108 of the Town and Country Planning Act 1990 provides that compensation is payable, for a period of 12 months, where a change to the GPDO restricts what was previously permitted and a subsequent application is refused or granted subject to conditions.
42. The Government proposes to review how these current compensation arrangements work so as to enable the effective application of changes to the system of permitted development and, if necessary, come forward with proposals to amend legislation – possibly by restricting rights to compensation subject to 12 months notice of change being given. However, whatever approach is decided upon will be very much guided by the desire to ensure that any changes do not result in financial loss for householders, through abortive costs, due to sudden changes in the legislative framework.

Question 4 – Do you agree that, subject to safeguards to protect householders from abortive costs, that the existing right to compensation for 12 months after any change to the GPDO is made is reviewed?

Removal of Permitted Development Rights

43. One of the objectives of this review of householder permitted development was to consider how to remove the need for a planning application where there is no, or little, impact beyond the host property. This reduces bureaucracy for both householders and local planning authorities.
44. The Government is also keen to ensure that local planning authorities have flexibility to assess what is most appropriate for their own locality. This flexibility already exists to some degree through the ability to make LDOs to extend permitted development or to restrict permitted development by the use of powers contained in article 4 of the GPDO (so-called “article 4 directions”).

45. The use of article 4 directions is constrained currently by the possible need to pay compensation for loss or damage directly attributable to the withdrawal of permitted development rights and, other than for specified types of development in conservation areas, to gain the Secretary of State's approval.
46. To enable greater local authority flexibility the Government, therefore, is considering whether the current article 4 process needs amending. First, it will examine whether there should be a similar amendment of existing compensation arrangements to that proposed for national restrictions of permitted development (see paragraph 42 above). Any change would be subject to ensuring that abortive costs by householders are avoided by sudden changes to permitted development rights. Secondly, the Government proposes to consider the need for the Secretary of State's consent for article 4 directions.
47. To ensure that a clear justification for article 4 directions remains we will consider whether the planning authority should be required to review them at least every five years.

Question 5 – Do you consider that local planning authorities should be able to make an article 4 direction without the need for the Secretary of State's approval at any stage?

Question 6 – Do you consider that, subject to safeguards to protect householders from abortive costs, the existing right to compensation as a result of the making of an article 4 direction should be reviewed?

Question 7 – Should there be a requirement for planning authorities to review article 4 directions at least every five years?

48. It will be important to set out at the national level a framework that would prevent any inappropriate permitted development from taking place. The impact approach used as the basis of our proposals should mean that permitted development of the nature described would not impact significantly on others. However, the ability of planning authorities to withdraw permitted development rights locally where there is a clear case for doing so by way of an article 4 direction recognises the need for some local flexibility.
49. An additional possibility to ensure that suitable safeguards are in place to protect against inappropriate development could be a prior approval mechanism for certain types of permitted development. It is unlikely that such an approach would be needed for other than a limited range of larger scale permitted development. Prior approval is used in a number of the Parts of the GPDO and allows local planning authorities with the opportunity to object to how a development is delivered, for example, to control the siting and appearance of telecommunication equipment.

50. Prior approval would have the advantage of a simplified approval procedure compared to an ordinary application for planning permission and would allow a planning authority to exercise some control over what was allowed locally. The procedure would require a much lower level of information to be provided and a planning authority would have to object to the proposals within a certain period of time to prevent development proceeding. Conversely, there may be additional cost and delay for both householders and planning authorities by adding this further condition to permitted development rights. A further consideration would be defining what types of development should be covered by a requirement for prior approval and what matters, for example, siting, design or appearance, should be subject to approval. The Government would particularly welcome views on such an approach and responses to the questions below.

Question 8 – Would there be benefit in making certain types of permitted development subject to a prior approval mechanism?

Question 9 – If so, what types of permitted development should be subject to prior approval and what aspects of the development should be subject to approval?

Section 4

Recommendations on Types of Householder Permitted Development

51. WYG considered the permitted development rights currently enjoyed by householders in Parts 1 and 2 of Schedule 2 to the GPDO. Part 1 sets out a range of permitted development rights for dwellinghouses. Part 2 sets out rights in relation to boundaries, new accesses and exterior painting; it applies to all classes of development as well as residential. The WYG report provides a thorough assessment of the current system and how that should be developed to deliver a more permissive system whilst properly controlling impacts on others.
52. Only a very brief summary of the contents of that report are outlined in this section and consultees are advised to refer to that document to understand how the detailed limits described below have been arrived at. Parts of the text in this section have been drawn directly from the WYG report.
53. In summary, no significant change is proposed to the permitted development rights already contained in Part 2 of the GPDO. Substantial amendment is proposed, however, for those types of development contained in Part 1 with the exception of development in relation to porches and microwave antennas.
54. WYG suggest that Parts 1 and 2 of Schedule 2 to the GPDO should be replaced with a new development order covering just householder development – a “Householder Permitted Development Order” (HPDO).

Question 10 – Would there be benefit in having a separate development order containing just permitted development rights for householders?

55. The limits proposed for the various categories of development in this section are also framed with reference to a number of new definitions proposed by WYG. It is expected that these revised definitions will address some of the current problems and anomalies that the existing GPDO throws up. The new proposed definitions are for “original dwellinghouse”, “original rear wall”, “principal elevation” and “side wall”. More information on these proposals is contained at paragraphs 4.14 – 4.18 and 7.24 of the WYG report.

Question 11 – Do you have any comments on the proposed definitions?

Extensions

Current Situation

56. The permitted development rights for extensions are currently set out in Class A of Part 1 of the GPDO. The GPDO deals with extensions by setting limits in terms of volume. It sets a cumulative limit depending on the type of house and where it is located. WYG highlighted two particular problems with the current approach. First, it places an artificial limit on the enlargement of larger properties even though cumulative extensions beyond the 70m³ may not give rise to any problems. Secondly, if the rear of a property faces a highway any rear extension within 20m of the rear boundary would require an application for planning permission.

Proposal

57. Extensions are the most common type of householder development both in terms of what is permitted development and development which requires a planning application. Chapter 4 of WYG's report shows the considerable work done by them to draw up the limits of permitted development for this class of development. This led to the limits proposed below:
1. **No extension to come forward of the principal elevation of a dwellinghouse or side elevation facing a highway (where the principal or side elevations are stepped, the rearmost part of that elevation is taken to be the principal or side elevation)**
 2. **The maximum depth of single storey extension behind the original main rear wall of the house to be 4m for attached dwellinghouses and 5m for detached dwellinghouses (if the rear wall is stepped, the limitation on the depth of extension will similarly be stepped)**
 3. **The maximum depth of an extension more than 1 storey (or 4m high) behind the original main rear wall of the house to be 3m for attached dwellinghouses and 4m for detached dwellinghouses**
 4. **Within 2m of any boundary, the maximum eaves height of an extension to be 3m, and the maximum overall height to be 3m with a flat roof and 4m with a pitched roof**
 5. **The maximum eaves and ridge height of an extension to be no higher than the existing dwellinghouse**
 6. **To the sides of a dwellinghouse, extensions to be single storey only and no higher than 4m high, and no wider than half the width of the original dwellinghouse**
 7. **2 storey extensions to be located no closer than 7m to the rear boundary, or no closer than the existing rear wall of the dwellinghouse if this is closer than 7m to the rear boundary**
 8. **The roof pitch of extensions higher than 1 storey (4m) to match that of the existing house**
 9. **Any side-facing windows on extensions higher than 1 storey to be obscure-glazed and non-opening**
 10. **Materials to match those of the existing dwellinghouse**
 11. **No raised terraces, verandahs or balconies, including railings, walls or balustrades to be added to the dwellinghouse**
 12. **Maximum 50% coverage (including outbuildings) of the private garden area**
 - **in designated areas, side extensions should require planning permission**

- **in designated areas, all forms of cladding should require planning permission**

Question 12 – Do you agree with the proposed limits for extensions?

Roof Extensions

Current Situation

58. As WYG recognised in their report, roof extensions are dealt with differently in the GPDO (Class B of Part 1) from other extensions. Roof extensions are the second most common type of householder development and are particularly prevalent in urban areas. As with other extensions, WYG's approach suggests a move away from the current volume-based approach. However, evidence provided by the Local Government Ombudsman showed that overlarge dormers were responsible for a significant number of their complaints – suggesting, at least, that the current rights may allow development with an unacceptably high impact.

Proposal

59. Chapter 5 of WYG's report again shows the significant work undertaken to assess acceptable limits for this class of development. The final proposals seek to address the potential impacts of overlarge box dormers on neighbours by requiring that they are set back from the roof edges, which reduces their visual impact whilst still permitting householders to install dormers. As such, impact is properly limited whilst still providing an acceptable level of permissiveness for householders. The proposed limits are:

- 1. No roof extension to come forward of any roof plane of the principal elevation of a dwellinghouse or any side elevation (where the principal or side elevations is stepped, the rearmost part of that elevation is taken to be the principal or side elevation)**
- 2. Roof extensions to be a minimum of 1m above eaves, 1m below ridge, 1m from the side verge and where applicable 1m from the party wall. Where the roof of a dwellinghouse is hipped, a roof extension may be a minimum of 0.5m from the hipped roof. Where a terraced property has a two storey rear outrigger, the roof extension may intersect with the roof of the outrigger**
- 3. Materials to match those of the existing dwellinghouse**
- 4. No raised terraces, verandahs or balconies, including railings, walls or balustrades added to the dwellinghouse**
- 5. Any side-facing windows to be obscure-glazed and non-opening**
 - **in designated areas, all roof extensions should require planning permission**

Question 13 – Do you agree with the proposed limits for roof extensions?

Roof Alterations

60. WYG did not focus on roof alterations in the same way as other types of householder development. This was because they were aware of the work undertaken by Entec on householder microgeneration that, because of the need to consider the installation of solar panels on roofs, had already sought to use an impact-based approach to determine what roof alterations should be permitted.
61. Entec’s work recommended that solar panels should be permitted on roofs subject to them projecting no more than 150mm from the existing roof plane. Entec reason that while there would be a visual impact by allowing this degree of flexibility, it would be acceptable.

Proposal

62. In terms of restrictions for the coverage of a surface, Entec proposed that development should be limited so that coverage would not exceed 60% of a roof or wall. However, the Government considers that it is arguable as to whether there is necessarily a correlation between the extent of the coverage of panels and their visual impact in the way the report suggests. We propose that there should be no such limit. The proposals therefore are:

1. Maximum upstand of 150mm

2. No maximum % roof coverage

- **in designated areas, no alteration to the roof plane of a principal elevation**

Question 14 – Do you agree with the proposed limits for roof alterations?

Curtilage Developments

Current Situation

63. These developments include all freestanding structures or works within the boundaries of a property, including outbuildings, garages and swimming pools. Current limitations on outbuildings rely on volume calculations. Evidence gained from the Local Government Ombudsman suggests there is disquiet from neighbours in relation to large outbuildings near to neighbouring properties.

Proposal

64. WYG’s approach was to seek to address curtilage developments by reference to height, floor area and proximity to the boundary. Thorough testing and further refinement of the preferred option led to the proposals below.

65. Some concern has been expressed about the inappropriate use of outbuildings as living accommodation. Local planning authorities are already able to address any misuse of permitted development rights by using the enforcement powers at their disposal. Local authorities also have powers, under housing legislation, to prohibit the use of accommodation if that use is unsuitable because it poses a risk to the health and safety of occupiers.

- 1. No outbuilding, garage or swimming pool to come forward of the principal elevation of a dwellinghouse or a side elevation facing a highway (where the principal elevation is stepped, the rearmost part of that elevation is taken to be the principal elevation)**
- 2. Outbuildings and garages to be single storey only**
- 3. The maximum eaves height of outbuildings and garages to be 2.5m, and the maximum overall height to be 4m with a dual pitched roof, or 3m with a monopitched roof**
- 4. Within 2m of a boundary the maximum overall height to be 2.5m**
- 5. The maximum combined ground coverage of all garages and outbuildings to be 30 sq m if the private garden area exceeds 100 sq m, or 20 sq m if the private garden area is less than 100 sq m**
- 6. No raised terraces, verandahs or balconies, including railings, walls or balustrades added to the dwellinghouse**
- 7. Maximum 50% coverage (including extensions) of the private garden area**
- 8. Maximum height of decking to be 0.3m**
 - in national parks, areas of outstanding natural beauty and World Heritage Sites, the maximum area to be covered by outbuildings, garages and swimming pools located more than 20 metres from the host dwellinghouse to be limited to 10 sq m**
 - in designated areas, outbuildings at the side of properties should require planning permission**
 - within the curtilage of listed buildings, any outbuilding greater than 3 sq m should require planning permission**

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| <p>Question 15 – Do you agree with the proposed limits for curtilage developments?</p> |
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Hard Surfaces

Current Situation

63. The GPDO currently provides no restriction on a householder's ability to pave over front gardens. At present, therefore, significant changes in the appearance of a street can occur where hard surfaces are installed in an uncontrolled manner to provide off-street parking in front gardens. Moreover, hard surfaces lead to accelerated run-off of surface water which can overload sewerage systems in more urban areas. This problem is likely to intensify as climate change produces more torrential downpours of rain. Another effect of hard surfaces is to reduce biodiversity.

Proposal

WYG's proposal was to limit to 50% the ground area that could be covered by hard surfaces and require that they be porous. While the Government accepts that the paving over of front gardens can sometimes lead to problems, the fact that this tends to be an issue in only some parts of the country suggests that a national restriction would be disproportionate to the scale of the problem. The Government therefore proposes no national restriction on hard surfaces at the front of the property. Local planning authorities would then need to use their powers to make an article 4 direction where they believed the problem required restriction to be imposed. This would allow control to be imposed where appropriate, for example, by requiring through a condition of the planning permission that only porous materials are used.

Question 16 – Do you agree that there should be no national restriction on hard surfaces?

Other Minor Changes

64. WYG propose that permitted development rights for oil storage containers (currently dealt with separately in Class G) would be subsumed into the provision covering curtilage developments more generally. In addition it is proposed that the permitted development rights would also apply to tanks for liquid petroleum gas.
65. The only minor change to the permitted development rights in Part 2 relates to the means of access where it is proposed to delete the requirement that domestic accesses must be required in connection with another class of development.

Annex 1

Householder Permitted Development Rights

| Existing Tolerance | Proposed Tolerance |
|---|--|
| <p><i>Class 1A.1(a); Class 1B.1(d); Class 1E.1(c) [in conjunction with 1A.3(a)]</i> Cumulative volume limitation on extensions/roof extensions/outbuildings larger than 10 cu m within 5m of the house: 70 cu m/15% for detached/semi-detached; 50 cu m/10% for terraced; Maximum 115 cu m for all house types</p> | <p><i>Depth limitation on rear extensions:</i> Single storey: 4m (attached), 5m (detached); Two storey: 3m (attached), 4m (detached)</p> <p><i>Width limitation on side extensions:</i> 50% of width of original dwellinghouse</p> <p><i>Limitations for 2 storey or higher rear extensions:</i> Minimum 7m to rear boundary; Roof pitch to match main house; Any side-facing windows to be obscure glazed and non-opening</p> <p><i>Other limitations:</i> No terraces or balconies; Materials to match</p> |
| <p><i>Class 1A.1(a); Class 1B.1(d), Class 1E.1(f)</i> Cumulative volume limitation on extensions/outbuildings larger than 10 cu m on Article 1(5)* land: Maximum 50 cu m/10% for all house types; Maximum 115 cu m for all house types; No roof extensions; Maximum 10 cu m for each outbuilding</p> | <p><i>In National Parks/AONB's/World Heritage Sites:</i> Maximum floor area of outbuildings/swimming pools more than 20m from the house: 10 sq m</p> <p><i>In designated areas:</i> No extensions or outbuildings to the side of dwellinghouses; No roof extensions</p> <p><i>Within the curtilage of listed buildings:</i> Maximum floor area of outbuildings: 3 sq m</p> |
| <p><i>Class 1A.2</i> Various forms of cladding prevented on Article 1(5)* land</p> | <p>All forms of cladding prevented in designated areas</p> |
| <p><i>Class 1B.1(c)</i> Volume limitation on roof extensions: 50 cu m for detached/semi-detached; 40 cu m for terraced</p> | <p><i>Size limitation on roof extensions:</i> Minimum 1m from eaves, ridge, verge (and party wall)</p> <p><i>Other limitations:</i> No front or side roof extensions; No terraces or balconies; Materials to match; Any side-facing windows to be obscure-glazed and non-opening</p> |
| <p><i>Class 1A.1(d)</i> Limitation on height of extensions near boundaries: Maximum 4m high within 2m of a boundary</p> | <p><i>Height limitation on extensions:</i> 3m to eaves within 2m of a boundary; 4m to ridge within 2m of a boundary; 4m for side extensions; Within 2m of a boundary or to the side of a dwellinghouse extensions to be single storey only</p> |
| <p><i>Class 1A.1(b); Class 1B.1(a)</i> Extensions/roof extensions to be no higher than existing house</p> | <p>Eaves and ridge height of extensions to be no higher than the eaves and ridge of the main part of the dwellinghouse</p> |

* Article 1(5) land includes sensitive areas such as National Parks, Areas of Outstanding Natural Beauty, Conservations Areas and areas of ecological importance

| Existing Tolerance | Proposed Tolerance |
|---|--|
| <p><i>Class 1A.1(e); Class 1E.1 (e)</i> Maximum 50% ground coverage of extensions/outbuildings (excluding the area of the original house)</p> | <p>Extensions and outbuildings to cover a maximum of 50% of private garden area</p> |
| <p><i>Class 1A.1(c); Class 1B.1(g); Class 1E.1(g); Class 1G.1(c)</i> Extensions/roof extensions/outbuildings/oil storage containers to be no nearer a highway than the original house</p> | <p>Extensions/roof extensions/outbuildings not to come forward of the principal elevation or side elevations facing a highway</p> |
| <p><i>Class 1E.1(d); Class 1G.1(g)</i> Limitation on height of outbuildings/oil storage containers: 4m for outbuildings with a ridged roof; 3m for outbuildings with a flat roof and oil storage containers</p> | <p><i>Height limitation on outbuildings:</i> 2.5m to eaves, 4m to ridge (dual pitched), 3m (monopitched) 2.5m to ridge within 2m of a boundary</p> <p><i>Floor area limitation:</i> 20 sq m if the rear garden is less than 100 sq m; 30 sq m if the rear garden exceeds 100 sq m</p> <p><i>Other limitations:</i> Single storey only; No terraces or balconies;</p> |
| <p><i>Class 1C.1</i> Roof alterations not to materially alter roofshape</p> | <p><i>Limitations on roof alterations (Entec study):</i> Maximum upstand of 150mm (120mm in sensitive areas); Maximum 60% roof coverage (50% in sensitive areas)</p> |
| <p><i>Class 1D.1(a); Class 1D.1(b); Class 1D.1(c)</i> Restrictions on porch size: 3sq m in area; 3m high; Minimum 2m back from a highway</p> | <p>No change</p> |
| <p><i>Class F</i> Hard surfaces unrestricted provided incidental to the enjoyment of the dwellinghouse</p> | <p>No change</p> |
| <p><i>Class 2A.1(a); Class 2A.1(b)</i> Limitations on height of means of enclosure: 1m facing a highway 2m elsewhere</p> | <p>No change</p> |
| <p><i>Class 2B</i> Creation of means of access unrestricted except onto trunk or classified roads</p> | <p>No change; delete requirement that accesses must be required in connection with another class of development</p> |
| <p><i>Class 2C.1</i> Painting exterior allowed provided it is not for the purpose of advertising</p> | <p>No change</p> |

Annex 2

Partial regulatory impact assessment

Title of Proposal: Householder Permitted Development Rights (Amendment to the Town and Country Planning (General Permitted Development) Order 1995 Parts 1 and 2)

Purpose and Intended Effect of Measure

Objective

To revise what householders can do to their own homes without the need to apply for planning permission – so-called “permitted development rights”. The aims were to:

- reduce the number of householder planning applications;
- improve the quality of householder developments which do not need planning permission;
- make the regulations which control householder developments more user friendly.

Background

Approximately 322,500 householder planning applications were submitted in England in 2005/06. This represents an approximate doubling of the number of applications in the last ten years. Householder applications account for half of all planning applications, ranging in size from extensions to dwellings, to outbuildings and new accesses.

A significant number of householder developments do not appear in these statistics by virtue of being permitted development under the Town and Country Planning (General Permitted Development) Order 1995 (GPDO). Householder developments which proceed on the basis of being permitted development are generally small-scale and uncontentious, but occasionally give rise to complaints from neighbours.

Rationale for Government Intervention

Some of the developments that require an application for planning permission currently may have no significant impacts. A considerable amount of time and resource is required by the applicant and by local authority officials to process such applications. We propose to reduce the overall number of developments that require consent by removing those that have no or minimal impact from the system. This will reduce the costs in dealing with householder developments and ensure planning officers can focus on more strategic planning tasks with a wider public benefit.

In addition, the current difficulty of interpreting the regulations takes up householders’ and planning officers’ time, as well as giving rise to avoidable enforcement action to remediate householder developments which have been carried out incorrectly. We will clarify the conditions under which planning permission is required. By focusing on impact, we will ensure that householder developments with an impact on neighbours or the surrounding environment are given due consideration by the planning authority.

Consultation

Stakeholder input has been a key feature of the Householder Developments Consent Review work and it has been widely consulted on both inside and outside government, including with DEFRA and DTI. A list of organisations that contributed to the review is contained in the Steering Group Report.¹ Stakeholders who contributed included:-

- *Governmental organisations* – Commission for Architecture and the Built Environment, English Heritage, Environment Agency, Planning Inspectorate, Local Government Ombudsman, Audit Commission.
- *Professional bodies* – Royal Town Planning Institute, Royal Institute of British Architects, Royal Institute of Chartered Surveyors, Association of Consultant Architects, District Surveyors Association, Federation of Master Builders, Institute of Historic Building Conservation, Association of Corporate Approved Inspectors, National Association of Tree Officers, Arboricultural Association, Planning Officers Society.
- *Others* – British Property Federation, Citizens Advice, Civic Trust, Construction Industry Council, Council for the Protection of Rural England, Council for National Parks, Local Government Association, National Planning Forum, National House Builders Federation, Planning Advisory Service, Planning Aid.

The Planning Inspectorate the Royal Town Planning Institute, the Local Government Association, the Planning Advisory Service and the Local Government Ombudsman were also represented on the Steering Group.

Options

Option 1: Do nothing

The current regulations for householder applications would apply.

Option 2: Revision of GPDO replacing volume based limitations

Fundamental revision of the GPDO to replace the current volume-based approach with guidelines based on simpler measurements of length, width and height. These size limits seek to prevent significant impacts on others, for example, from overshadowing. The new guidelines would broadly increase the amount by which householders could extend their properties, particularly those with larger houses, but would also tighten up areas of the current regulations where undesirable developments, such as overlarge dormer extensions, are brought under control.

Alternative options considered

We had considered a ‘purer’ approach to assessing impact whereby permitted development would be dependent on a case by case assessment of potential impact. This would, for example, require that for an extension consideration would have to be given of the location of windows on neighbouring properties; the distance and angle etc.

¹ The Steering Group report can be found at www.communities.gov.uk/notex.asp?id=1143241

Costs and Benefits

Sectors and Groups Affected

- Householder applicants (including developers and homeowners)
- Public sector (local authorities and the Planning Inspectorate)
- Businesses involved in the preparation and submission of householder planning applications and the carrying out of householder developments

Economic Impacts

Option 1 – Do nothing

There are no additional economic benefits or costs, although resource will continue to be spent processing applications that have low impacts.

Option 2 – Revision of GPDO replacing volume based limitations

Savings for householder applicants

Potentially cost savings to applicants accrue through removing the need for planning applications in all cases. White, Young, Green have undertaken testing at four local authorities and the Planning Inspectorate examining development control decisions to see which types of application can be taken out of the system, and which should be brought under planning control. The test results shows that nationally a saving of 16% of householder applications is achievable in larger cities and conurbations; 21% in towns and smaller cities; and 59% in rural settlements; giving an average of 26.4% saving nationally. Householder planning application numbers would be reduced by 85,000 from 322,500 to 237,250 per annum. (It is reasonable to expect a ‘settling in’ period of up to a year.)

The 85,000 reduction is estimated to be composed as follows:-

| | |
|--|---------------|
| Applications taken out of the system (previously needing permission) | 117,000 |
| Applications brought under planning control (previously exempt) | 32,000 |
| Total change in householder application numbers | 85,000 |

The cost saving will be limited by two main factors. First, much of the administrative work required in preparation of an application will be required to develop plans for builders and building regulations. Second, it is reasonable to expect an increase in the number of requests for lawful development certificates so householders can justify the work undertaken when they come to sell the property.

The following tables estimate the annual net saving to householder applicants.

| Number of applications reduced (a) | Admin cost saved (per development) (b) | Fee saved (per development) (c) | Total saved (a x (b+c)) |
|------------------------------------|--|---------------------------------|-------------------------|
| 85,000 | £725 ¹ | £135 | £73,100,000 |
| | | | |

² PriceWaterhouseCooper estimated that the administrative cost of a householder application was £725 in 2005.

| Number of lawful development certificates increased (a) | Admin cost (per certificate) (b) | Fee saved (per development) (c) | Total cost (a x (b+c)) |
|---|----------------------------------|---------------------------------|------------------------|
| 42,500 (50%) | £362.50 ³ | £67.50 | £18,275,000 |
| 68,000 (80%) | £362.50 | £67.50 | £29,240,000 |

| Scenario | Net saving |
|--|----------------------|
| 50% of applicants who no longer require planning permission apply for a lawful development certificate | £54.8 million |
| 80% of applicants who no longer require planning permission apply for a lawful development certificate | £43.9 million |

Work undertaken for the department by MORI indicates that 78% of householder applications are submitted by an agent. Based on this figure, a saving of £34 – 43 million would accrue to businesses and the balance to homeowners.

In addition, this option offers greater certainty provided by permission already being in place and the ability to deliver development more speedily. Potentially, householders will be more willing to carry out extensions knowing that an application for planning permission is less likely to be required.

Costs and Savings for local planning authorities

The fees charged by local authorities to process householder applications and lawful development certificates cover the average costs of providing the service. We would expect any change in the cost of these services to be covered by the related change in fee income. However, the planning applications to be taken out of the system may be the simplest cases, not the average. Potentially therefore, there may be a small, additional burden on local authorities although this is difficult to estimate.

The overall decrease in workload though will free up staff resource for other planning matters, and in a context of staff recruitment difficulty (particularly in Greater London) the value of freeing up of staff time should not be underestimated.

Based on a reduction of 85,000 applications and assuming a cost per employee of £30,000 it is possible to provide an estimate of the possible saving in terms of staff time of this proposal. Assuming a working year of 220 days the cost of an employee's working day is £136 – virtually the same as the fee received for a householder application. This means, therefore, that there will be an annual saving of 85,000 working days (or 386 person years) in relation to the handling of householder planning applications.

However, as recognised above, this saving will be offset somewhat by an increase in requests for lawful development certificates. Assuming that such a request would be dealt with in half the time required for assessing an application for planning permission, a 50% take-up of a request for a certificate amounts to 97 working years in terms of processing time and an 80% take-up 154.4 years. This amounts to net savings of 289 and 231.6 working years respectively across England.

³ The administrative cost of applying for a lawful development certificate is estimated to be half of the administrative cost of applying for planning permission.

Environmental Impacts

The proposed change has no additional environmental costs, and by adopting an impact approach environmental benefits could accrue from better-designed development.

Race Equality Impact Assessment

An initial assessment has been carried out and is published at Annex 4 of this consultation paper.

Rural, health or other social impacts

The White, Young, Green study suggests that the benefits of this proposal are likely to be felt more strongly in rural as opposed to urban areas. Similarly, owners of larger properties are likely to benefit most from more permitted development and therefore the affluent are likely to benefit most. The additional restrictions on larger, dormer roof extensions are more likely to restrict development in urban areas.

Small Firms Impact Test

Reform of the GPDO would remove a significant regulatory burden from the many small businesses – architects, architectural technicians, town planning consultants and builders – who are responsible for the design and building of domestic alterations. On the debit side is the fact that a simplification of the regulations could lead to a reduction in those seeking specialist help to interpret the regulations correctly; but this is likely to be compensated for by an increase in householders carrying out extensions as a direct result of the regulations being simplified.

The Association of Consultant Architects (ACA) represents many of the small businesses involved in preparing and submitting schemes for domestic extensions. A representative of the ACA attended the Sounding Board where the draft proposals were discussed and expressed the view that they were “good and progressive” whilst having some reservations about the detail of what was being proposed.

Other small businesses involved in the sector are represented by professional bodies such as the Royal Institute of British Architects, the Royal Institute of Chartered Surveyors and the Royal Town Planning Institute. Representatives of each of these bodies attended Stakeholder Sessions as part of the initial work of the Householder Development Consents Review.

Competition Assessment

The nine questions which comprise the competition filter have been answered with a “no” to each question posed. The proposals are not expected to impact significantly more on some firms than others nor to restrict new entrants to the market. The freedom of firms to choose the price, quality, range or location of their products will be unaffected.

Enforcement, Sanctions and Monitoring

Permitted development rights would be set nationally through an amendment to the GPDO. Each local planning authority would take responsibility for enforcement in the same way as they do with existing permitted development rights. Available sanctions include powers to compel householders to submit a planning application for works which require planning permission, and powers to stop construction work and require the demolition or rebuilding of works which are unacceptable. All such sanctions are subject to the right of appeal by affected householders.

Existing monitoring mechanisms will allow the operation of the proposals to be measured in terms of the volume of householder planning applications decided by each planning authority annually, and therefore in terms of the consequent changes in local planning authority income.

Implementation and Delivery Plan

A timetable for implementation has yet to be formulated and will be to some extent dependent on feedback received during the consultation period, but implementation is anticipated in 2008.

Guidance on the proposed new permitted development rights will accompany these changes, and is likely to take the form of a departmental Circular, a plain English guide for householders/users and a web-based interpretative material provided via the Planning Portal.

Post-implementation Review

Communities and Local Government receives regular feedback from practitioners and professional bodies on all areas of planning, and householder applications are no different in this respect. Communities and Local Government will review the effects of the changes proposed in this document three years after their implementation.

Summary and recommendation

Based on the analysis presented above, the recommendation is to implement changes to the General Permitted Development Order as outlined in Option 2.

Annex 3

Partial regulatory impact assessment

Title of proposal: Compensation and Article 4 Directions

Purpose and Intended Effect

Objective

- i) To amend the existing arrangements relating to restrictions to permitted development rights.

Background

Operation of New Permitted Development Rights

The Government's proposals for changing permitted development rights for householders generally provide for a more permissive system. However, some development will cease to be permitted development under these proposals, for example, oversized dormer windows. Section 108 of the Town and Country Planning Act 1990 provides that compensation is payable, for a period of 12 months, where a change to the General Permitted Development Order (GPDO) restricts what was previously permitted and a subsequent application is refused or granted subject to conditions.

Operation of Article 4 Directions

The proposals to broaden householder and domestic microgeneration permitted development will apply nationally. The only means planning authorities will have to restrict the broader permitted development further is through making directions under article 4 of the GPDO.

Planning authorities can already restrict permitted development rights in exceptional circumstances by making an article 4 direction. However, there are some potential constraints on the use of directions by local authorities where the imposition of them would be justified. These include the possibility of compensation payable following loss of permitted development rights and the requirement for the local planning authority to gain the Secretary of State's approval for making a direction, other than for specified types of development in conservation areas.

Rationale for Government Intervention

Changes to the regulatory framework are required to help the transition to new permitted development rights. The change will ensure appropriate notice is given for changes in the GPDO so as to remove the need for compensation.

To ensure that local planning authorities have the flexibility to apply article 4 directions in response to local need and exceptional circumstances, we also need to consider removing the barriers to the use of article 4 directions.

Consultation

Within Government

Consultation on the proposals in the Planning Reform White Paper took place with other Government Departments as part of the intergovernmental pre-publication process for the White Paper.

Public Consultation

This RIA accompanies the consultation paper that seeks views on this issue.

Options

Option 1: Do nothing

The current arrangements for compensation payments and article 4 would be maintained. Whilst this offers consistency, there would be less flexibility for the Government to change the GPDO and local authorities to exercise flexibility through article 4 directions.

Option 2: Drop provision for compensation when restrictive GPDO changes are introduced

Where appropriate notice had been given for changes to the GPDO (for example, 12 months notice), applicants would no longer have the right to compensation payments.

Option 3: Changes to Article 4 Directions

First, where appropriate notice had been given for changes to the GPDO through an article 4 direction (for example, 12 months notice), applicants would no longer have the right to compensation payments.

Secondly, local planning authorities would no longer need the Secretary of State's consent for article 4 directions.

Thirdly, local planning authorities would be required to review article 4 directions every five years. There is currently no requirement to review them.

Options B and C can be implemented separately or together.

Costs and Benefits

Sectors affected

- Public sector (particularly local authorities)
- Applicants (including business, charity and voluntary sectors)

Option B: Costs and Benefits

We have little idea of the scale of the costs and benefits – it is very unusual to introduce restrictions so there is no past experience to go on. For the proposed extension of permitted development rights for householder applications, this would apply to only a limited number of applications, for example, those seeking permission for large dormer window extensions. We have estimated that there are 10,000 applications coming into the system that would have been permitted previously. However, it is not clear whether compensation would typically be claimed or how much would be liable. In the case of dormer windows for example, the restriction will change the size and type of the extension only. Compensation payments are typically negotiated between local authorities and the claimant.

Option C: Costs and Benefits

Article 4 directions are used commonly and there are currently 9,374 conservation areas in England. A survey carried out by Roger Tym & Partners in 1994 found that three quarters of authorities surveyed had at least one conservation area – one had 77. However, there is no information available on extent of coverage of these areas; some are very small.

18% of authorities surveyed by Roger Tyms said they were reluctant to apply Article 4 directions because of the requirement for Secretary of State approval and 31% said they were reluctant because of the threat of compensation.

This is a devolutionary measure that allows the authority more flexibility to respond to local need. It is likely therefore that these changes will lead to an increase in Article 4 directions. However, the requirement to keep Directives under review would also affect the authority's decision.

The Department does not have any information on the current level of compensation claims or payments due to article 4 directions.

It is not clear what impact any change in the number of article 4 directions will have on outcomes. They will only be applied in exceptional circumstances and will in many cases reinstate the GPDO in place now.

Comments on the costs and benefits of the possible changes to Article 4 directions are being sought in the consultation process.

Options B and C could be introduced separately or together.

Small Firms Impact Test

Removing the right for compensation for applications affected by changes to the GPDO may impact small firms disproportionately because they are the types of firms that more often apply for permission on household and minor developments.

This proposal increases the flexibility local authorities will have to opt out of these extensions, in exceptional circumstances. This proposal will therefore affect small firms in areas where local authorities choose to make article 4 directions. We do not know how many authorities this will be.

Small firms and their representatives will be consulted about this proposal in parallel with the public consultation. The Small Business Service acknowledged our approach.

Competition assessment

The competition filter test has been applied and this proposal was found to have no effects on competition.

Environmental impact

The removal of compensation payments for applications affected by changes in the GPDO is unlikely to have an effect on the environment.

Local authorities will have more flexibility to apply article 4 directions. From past experience, we believe that these are likely to be more rather than less restrictive of development compared to national policy.

Race equality impact assessment

This proposal has been subjected to a race equality screening assessment. We have not identified any such impacts from this proposal. The final race equality impact assessment will take into account any relevant feedback from the consultation.

Rural, health and other social

Authorities which will have the exceptional circumstances under which Article 4 is currently used tend to be rural or in National Parks. People in these areas will therefore experience a disproportionate impact. However, it is reasonable to assume that residents would be in support of the action taken by the authority to restrict certain types of development.

Other risks

Local authorities may use their rights to be more or less restrictive than national policy.

Enforcement, sanctions and monitoring

At this stage it is not possible to forecast any significant change in enforcement activity. The Secretary of State's powers to remove article 4 directions would remain in place. Under the proposals, local planning authorities would be required to review article 4 directions every 5 years.

Annex 4

Initial Race Equality Impact Assessment (REIA)

Background

This initial assessment has been prepared to examine the potential impact on the promotion of race equality of proposals to amend the system of householder permitted development rights.

Permitted development rights set out what a householder can do to their own home without the need to apply for planning permission. The proposals are based on work by White Young Green (WYG) for the department examining how the current system could be amended to ensure that what was permitted was based on the development having little or no impact on others – either neighbours or the wider community.

This REIA also builds on, and is informed by, an earlier assessment of potential race equality impact carried out prior to WYG's work commencing. This earlier assessment can be found on the department's website¹. This initial REIA is an interim assessment only. A full REIA will accompany the final proposals following a 3 month period of consultation and will be updated in the light of responses to this REIA and in particular the questions asked at the end of this document.

Our Proposals for Householder Permitted Development

The key areas in which our proposals would differ from what is currently permitted are:-

- clear and simple guidance for householders to assess whether their proposals require planning permission – in contrast to the current framework which relies on a complex system of cumulative volume calculations to determine whether an application for planning permission is required.
- limitations on development are based on potential impact – thus a proposal which is unlikely to generate adverse impacts for neighbours and the wider environment will be permitted development, in contrast to the current system which can be arbitrary in determining which developments require an application for planning permission.
- many straightforward proposals – such as conservatories – which currently may require an application for planning permission would no longer.
- householder developments which are currently permitted development, but which can give rise to adverse impacts – such as oversize box dormers – would require an application for planning permission.
- it is estimated that the proposed regime could reduce householder planning applications by about 26% annually, with the largest savings being achieved in rural areas

Update of the Key Findings of the Earlier Race Equality Assessment

The earlier race equality assessment work highlighted a number of areas where how householder permitted development rights operated might be relevant for further consideration as this work is taken forward. The sections below in some cases draw directly from that earlier assessment.

Differing attitudes to consent requirements

It was found that amongst some ethnic/cultural groups there was a greater likelihood of householders taking the view that “It’s my house, I should be able to do what I like with it” – and a greater likelihood of neighbours taking the view that “It’s your house, you can do what you like”. In broad terms the greater freedom that these proposals would give householders to carry out developments without the need for planning permission would have beneficial results for such groups. It is important to recognise, however, that these proposals would also tighten the regulations in certain areas, which is likely to have most impact in tight-knit inner city areas where houses and gardens are often small whilst the proportion of ethnic minorities is higher. As a result black and minority ethnic (BME) householders may be affected proportionally more than other householders by the increased need to seek consent for some forms of development. The alternative way of looking at this is, however, that those developments that will require a planning application are ones that have a potential impact on neighbours. Therefore, BME householders may benefit from this added protection proportionally more.

Differing needs for different developments

The likelihood of Asian householders needing to extend their properties more than other ethnic groups is highlighted in the previous race assessment. A combination of factors – Asian communities tending to be located in inner-city areas where houses are smaller, larger average family sizes than other BME groups, and Asian householders tending to be more likely to stay in their family home because of family and religious ties – gives rise to this. As a result the need to extend properties or even to combine properties is increased.

The ability to extend a house at ground and first floor level would be increased under our proposals – though the proposed relaxations benefit most those in detached houses, and least often those in terraced houses. The ability to extend into the roofspace will be limited to some extent (given the proposals to restrict some larger dormers), but will still be permitted development subject to meeting restrictions on how this is done. Thus, whilst these proposals will in overall terms be more permissive, additional restrictions are more likely to impact on inner-city areas, where BME groups make up a greater proportion of households.

Different experiences/perceptions of the planning system

Lack of awareness of the planning system by BME groups was identified in the earlier assessment, which was ascribed to language barriers and a lack of exposure to the planning system, as well as potentially different treatment when seeking advice. The simplification of the rules governing permitted development proposed by these proposals could potentially alleviate this issue, but only if BME groups have access to appropriate advice and assistance, in a suitable language. This issue is addressed later.

Assistance in meeting the needs of ethnic minority applicants

The earlier assessment noted a range of approaches to the question of outreach, with some local planning authorities making real efforts to inform BME groups of the planning system, and others being underresourced in this area. It was noted that the Planning Portal, the central point for planning information on the web, contains information only in English and Welsh. The point was made that it is most cost-effective, and best from a quality-assurance point of view, to provide translations centrally where possible.

Web-based expert systems offer perhaps the greatest potential for meeting the needs of ethnic and other minorities. Web-based systems have the advantage that they can be continuously updated, are always available (unlike printed guides which can run out or be poorly distributed), and are interactive and hence can answer householders' planning queries without the need to refer to local authorities, which may help to address language and cultural barriers.

Conclusion

This is an interim assessment only, aimed at building on the conclusions of the earlier assessment. It is our expectation that this consultation and the questions below will allow further consideration to be given to the potential race equality impacts of these proposals.

Questions

- 1. Do you consider that the proposed approach to householder consents will have different impacts on different ethnic groups? If you do, what might these impacts be?**
- 2. Do you consider that there will be a need to explain these impacts for different ethnic groups, for example via web based systems?**

¹ <http://www.communities.gov.uk/index.asp?id=1503750>

Annex 5

Summary of Questions

| QUESTION | YES | NO | COMMENTS |
|--|-----|----|----------|
| Question 1 – Do you agree with the principle of an impact approach for permitted development? | | | |
| Question 2 – Do you agree with a restriction on development facing onto and visible from a highway in designated areas? | | | |
| Question 3 – Should the restriction apply in the same way to types of designated area? | | | |
| Question 4 – Do you agree that, subject to safeguards to protect householders from abortive costs, that the existing right to compensation for 12 months after any change to the GPDO is made is reviewed? | | | |
| Question 5 – Do you consider that local planning authorities should be able to make an article 4 direction without the need for the Secretary of State’s approval at any stage? | | | |
| Question 6 – Do you consider that, subject to safeguards to protect householders from abortive costs, the existing right to compensation as a result of the making of an article 4 direction should be reviewed? | | | |
| Question 7 – Should there be a requirement for planning authorities to review article 4 directions at least every five years? | | | |
| Question 8 – Would there be benefit in making certain types of permitted development subject to a prior approval mechanism? | | | |
| Question 9 – If so, what types of permitted development should be subject to prior approval and what aspects of the development should be subject to approval? | | | |
| Question 10 – Would there be benefit in having a separate development order containing just permitted development rights for householders? | | | |
| Question 11 – Do you have any comments on the proposed definitions? | | | |

| QUESTION | YES | NO | COMMENTS |
|---|-----|----|----------|
| Question 12 – Do you agree with the proposed limits for extensions? | | | |
| Question 13 – Do you agree with the proposed limits for roof extensions? | | | |
| Question 14 – Do you agree with the proposed limits for roof alterations? | | | |
| Question 15 – Do you agree with the proposed limits for curtilage developments? | | | |
| Question 16 – Do you agree that there should be no national restriction on hard surfaces? | | | |