



# RTPI

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Email response sent to: [lowcarbonPD@communities.gsi.gov.uk](mailto:lowcarbonPD@communities.gsi.gov.uk)

Dear Sir/Madam,

## **RESPONSE TO CONSULTATION PAPER: Permitted Development Rights for Small Scale Renewable & Low Carbon Energy Technologies & Electric Vehicle Charging Infrastructure**

Thank you for the opportunity to respond to the above consultation. The Royal Town Planning Institute (RTPI) is a membership organisation representing over 22,000 spatial planners. It exists to advance the science and art of town planning for the benefit of the public.

This document responds to the “Permitted development rights for small scale renewable and low carbon energy technologies, and electric vehicle charging infrastructure” Communities and Local Government consultation.

The response has been formed drawing together internal consultations and the results of meetings and discussions with members through the RTPI’s Development Management Network and its National Association for Planning Enforcement.

The RTPI commends the Government in its initiative to make it easier for householders and businesses to install renewable technologies. This is a positive step on the path towards making our energy supply more secure and less carbon-intensive and micro-renewables such as solar and heat pumps have an important role to play.

It is also important that the proposals take account of local circumstances, the historic townscape, and the rural landscape to ensure the measures are workable, justly applied and flexible enough to adapt to the fast-changing technologies.

It is arguable whether the aim of reducing the number of minor applications for commercial and non domestic developments in line with the recommendations of the Killian Pretty review will be achieved to any great extent by the proposed measures particularly in relation to wind turbines on domestic properties especially having regard to the limited uptake of permitted development under the existing GPDO amendment.

Similarly, the reduction in formal applications for planning permission will be mirrored by a proportional increase in enforcement related requests for service and applications for Certificates of Lawfulness to establish the planning position. This will result in the shifting of focus of local authority planning staff from the processing of planning

applications to dealing with more enquires at the pre- application stage, as well as generating more enforcement enquiries.

The consultation recognises that small scale micro-generation and electric vehicle technologies are evolving very fast and the case could be argued that it would have been more prophetic to have delayed this consultation to embrace all known technologies rather than consult on a succession of proposals. In this respect it could be contended that the proposals do not go far enough. For instance, there is potential for the proposals to have included solar trees – artificial trees that capture solar and wind power and which can absorb CO2 emissions through their leaves. Commercially, these trees can be installed/planted in car parks providing power to offices, provide lighting (without light pollution) shading for the cars, as well as being the charging points for electric cars.

Whilst the aim of these changes to permitted development for micro-generation and electric vehicle charging infrastructure is laudable, the process appears complicated and imprecise in its definitions and application. This will lead to more uncertainty and confusion leaving the interpretation open to challenges.

It is considered that the proposals must be founded upon sound and good definitions, which currently it is not. The proposals, as set out, appear to make the system more complicated, which is at odds with the aim of reducing unnecessary planning “red tape” as outlined in the Killian-Prety Review.

Regrettably, the consultation does not, as it professes, permit the town and country planning system to play an important role in helping to shape these technologies in ways that ease their absorption into the existing urban and rural landscapes and guard against undue impacts on neighbours or the historic environment for instance. The consultation repeats the inconsistency with other recent permitted development consultations in that it fails to recognise and apply exceptions to all rights on Article 5 (1) land. The only application of this throughout the proposals is at: Solar panels 3(c) – A stand alone installation of solar panels on non-domestic premises.

The proposals throughout should have equal application and reflect instantly recognisable definitive reference to Article 5 (1) land as in previous permitted development orders. Further, there are implications for other important environments such as Sites of Special Scientific Interest, Special Area of Conservation and archaeological sensitive sites where biomass systems, anaerobic digesters and CHP systems for instance, could be constructed without requiring planning permission as proposed.

The new Statutory Instrument specifying that only development installed and certified by MCS is permitted is unworkable. Not only are there practical issues of officers obtaining copies of certificates, but if in all other respects the development is acceptable, what planning harm arises from the installation being installed by a company not signed up to MCS? A planning Statutory Instrument is not an appropriate legislative vehicle for requiring or enforcing certification. The RTPI considers that this measure is analagous to the imposition of a condition on a planning permission, and questions whether a requirement for MCS compliance meets the tests usually required of the application of a condition.

Sadly again there is a perpetuation of the lack of consistency of application, definition and interpretation dispersed throughout the proposals. Examples of this are the lack of definition of what constitutes a highway, what is a “designated town centre”, what comprise “domestic premises” – which is a new and needless nomenclature. And as an example of interpretation, it is difficult to comprehend how a solar panel attached to a wall of non-domestic premises be not less than 1 metre from the edge of the building. A further example of lack of clarity is around permitted development rights for wind turbines on semi-detached or terraced dwelling-houses. Whilst Table 1 refers to detached dwelling-houses it also sets out the definition of what constitutes a “dwelling-house” in the annexe which includes semis and terraced dwellings. This will inevitably lead to confusion.”

The RTPI considers it fundamentally wrong to introduce a prior approval procedure for the reasons set out above and as a further variant to existing prior approval procedures. This is unduly bureaucratic. Further, the information, details and drawings necessary to determine such an application are comparable to those required when seeking full planning permission. The view is held that the development benefits from a general permission granted or not. Strangely, and contrary to previous expressed views of the RTPI against this intermediate tier of development consent, the proposals require a prior notification procedure for structures housing hydro-turbines. Not only does this not reflect the aim of simplifying the planning system and do nothing to improve and streamline the system, but in this case it is the norm for the erection of such structures to form an integral part of a development to enable the use which in itself requires planning permission.

The introduction of a noise decibel reading into permitted development is a shift in the role of planning enforcement and will result in the introduction of regulatory cross-over with environmental health officers to ensure compliance. As problematic as this may be in practice and formal enforcement, the level of 45dB exceeds WHO guidelines, BS4142 1997, and runs counter to EU directives. In consequence if this right is maintained then there is potential conflict with current standards and best practice which is likely to result in claims of statutory nuisance. Additionally, and of more seriousness is the misuse of this proposed planning Statutory Instrument to apply the Environmental Protection Act. -

The proposed extension of permitted development rights to allow micro-renewables and low carbon energy technologies may well result in the removal of number of planning applications. However, this will inevitably translate into an increase in requests for service in planning enforcement and compliance to verify whether the work conforms to the new permitted development rights.

If you require any further assistance, please contact Rhian Brimble, RTPI Network Manager on 01443 229852 or email [rhian.brimble@rtpi.org.uk](mailto:rhian.brimble@rtpi.org.uk)

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Matt Thomson', with a long horizontal flourish extending to the right.

Matt Thomson  
**Acting Director Policy and Partnerships**