

Argyll and Bute Council
Comhairle Earra-Ghàidheal Agus Bhòid

Executive Director: Douglas Hendry



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11 November 2020

NOTICE OF MEETING

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held **BY SKYPE** on **WEDNESDAY, 18 NOVEMBER 2020** at **11:00 AM**, which you are requested to attend.

Douglas Hendry
Executive Director

BUSINESS

1. APOLOGIES FOR ABSENCE

2. DECLARATIONS OF INTEREST

3. MINUTES

- (a) Planning, Protective Services and Licensing Committee 21 October 2020 at 11.00 am (Pages 3 - 12)
- (b) Planning, Protective Services and Licensing Committee 21 October 2020 at 2.00 pm (Pages 13 - 16)
- (c) Planning, Protective Services and Licensing Committee 21 October 2020 at 2.30 pm (Pages 17 - 20)
- (d) Planning, Protective Services and Licensing Committee 21 October 2020 at 3.00 pm (Pages 21 - 24)

4. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: PRIVATE HIRE CAR LICENCE APPLICATIONS

Report by Executive Director with responsibility for Legal and Regulatory Support
(Pages 25 – 38)

5. **MR AND MRS JOHN AND JULIE MCNAMEE: ALTERATIONS/EXTENSION AND CHANGE OF USE OF ECCLESIASTICAL BUILDING (CLASS 10) TO FORM DWELLINGHOUSE (CLASS 9), INSTALLATION OF SEWAGE TREATMENT PLANT AND FORMATION OF VEHICULAR ACCESS (REVISED APPLICATION TO CREATE DOMESTIC CURTILAGE): INVERCHAOLAIN CHURCH, TOWARD (REF: 19/00849/PP)**

Report by Head of Development and Economic Growth (Pages 39 – 64)

6. **SCOTTISH GOVERNMENT CONSULTATION ON REVIEWING AND EXTENDING PERMITTED DEVELOPMENT RIGHTS (PDR) IN SCOTLAND - PHASE 1**

Report by Executive Director with responsibility for Development and Economic Growth (Pages 65- 256)

7. **RELAXATION OF PLANNING ENFORCEMENT IN RESPONSE TO COVID-19**

Report by Executive Director with responsibility for Development and Economic Growth (Pages 257 – 266)

Planning, Protective Services and Licensing Committee

Councillor Gordon Blair
Councillor Mary-Jean Devon
Councillor Audrey Forrest
Councillor Kieron Green
Councillor David Kinniburgh (Chair)
Councillor Roderick McCuish
Councillor Alastair Redman
Councillor Richard Trail

Councillor Rory Colville (Vice-Chair)
Councillor Lorna Douglas
Councillor George Freeman
Councillor Graham Hardie
Councillor Donald MacMillan BEM
Councillor Jean Moffat
Councillor Sandy Taylor

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held BY SKYPE
on WEDNESDAY, 21 OCTOBER 2020**

Present: Councillor David Kinniburgh (Chair)

Councillor Gordon Blair	Councillor Graham Hardie
Councillor Rory Colville	Councillor Donald MacMillan BEM
Councillor Mary-Jean Devon	Councillor Roderick McCuish
Councillor Lorna Douglas	Councillor Jean Moffat
Councillor Audrey Forrest	Councillor Sandy Taylor
Councillor George Freeman	Councillor Richard Trail

Attending: Patricia O'Neill, Governance Manager
Sandra Davies, Major Applications Team Leader
David Love, Area Team Leader – Mid Argyll, Kintyre and the Islands
Howard Young, Area Team Leader – Bute & Cowal/Helensburgh & Lomond
Brian Close, Planning Officer
Steven Gove, Planning Officer
Stuart McLean, Committee Manager

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Robin Currie and Alastair Redman.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES

- a) The Minutes of the Planning, Protective Services and Licensing Committee held on 23 September 2020 at 11.00 am were approved as a correct record.
- b) The Minutes of the Planning, Protective Services and Licensing Committee held on 23 September 2020 at 2.30 pm were approved as a correct record.
- c) The Minutes of the Planning, Protective Services and Licensing Committee held on 23 September 2020 at 3.00 pm were approved as a correct record.

**4. MR GORDON RUSSELL: APPROVAL OF MATTERS SPECIFIED IN
CONDITIONS 1-6 RELATIVE TO PLANNING PERMISSION IN PRINCIPLE
REFERENCE 16/02522/PPP - SITE FOR THE ERECTION OF RESIDENTIAL
HOUSING DEVELOPMENT AND FORMATION OF NEW ACCESS: LAND
NORTH-WEST OF ACHNASHEEN, THE BAY, STRACHUR (REF:
19/02375/AMSC)**

The Planning Officer spoke to the terms of the report. The application site is located within the Key Rural Settlement zone of Strachur. The application seeks permission for the details required by Conditions 1-6 relative to Planning Permission in Principle

reference 16/02522/PPP which was granted on 24 November 2016 and established the principle of development of the site for an approved layout of 18 dwellinghouses. As such there are no fundamental issues relating to the principle of the development which require to be examined, only the matters 'reserved' ie siting, design, external appearance, landscaping, access arrangements, proposed water supply and drainage requirements. Conditions 2 and 3 are time conditions relative to the submission of the AMSC application while condition 4 relates to the approved drawings on the previous permission. These have been satisfied by the submission of this AMSC application and are not directly relevant to the assessment of this application. Letters of objection from 18 individuals have been received. The proposal conforms to the relevant development plan policies and there are no other material considerations, including issues raised by third parties, which would warrant anything other than the application being determined in accordance with the provisions of the development plan. It is considered that the matters specified in conditions 1-6 have been satisfactorily addressed by the details submitted for consideration of this application.

It is recommended that Approval of Matters Specified in Conditions be granted subject to the conditions and reasons detailed in the report of handling.

Decision

The Committee agreed to grant the Approval of Matters Specified in Conditions subject to the following conditions and reasons:

1. The development shall be implemented and managed in accordance with the conditions within the grant of planning permission in principle ref. 16/02522/PPP and in accordance with the details specified on the application form dated 12th November 2019; all supporting information; and the approved drawings listed in the table below unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Plan Title.	Plan Ref. No.	Version	Date Received
Location Plan	Drawing No. A4 1:2500		27/11/2019
Site Location Plan as Existing	Drawing No. L(--)01	Rev C	27/11/2019
Site Location Plan as Proposed	Drawing No. L(--)02	Rev G	03/07/2020
Ground Floor Site Plan as Proposed	Drawing No. L(--)03	Rev H	03/07/2020
House Type A1 Plans & Elevations	Drawing No. L(--)10		27/11/2019
House Type A2 Plans & Elevations	Drawing No. L(--)11	Rev A	27/11/2019
House Type A3 Plans & Elevations	Drawing No. L(--)12		27/11/2019

House Type A4 Plans & Elevations	Drawing No. L(--)13		27/11/2019
House Type A5 Plans & Elevations	Drawing No. L(--)14		27/11/2019
House Type A6 Plans & Elevations	Drawing No. L(--)15		27/11/2019
House Type B1 Plans & Elevations	Drawing No. L(--)20		27/11/2019
House Type B2 Plans & Elevations	Drawing No. L(--)21		27/11/2019
House Type B3 Plans & Elevations	Drawing No. L(--)22	Rev A	27/11/2019
House Type B4 Plans & Elevations	Drawing No. L(--)23		27/11/2019
House Type B5 Plans & Elevations	Drawing No. L(--)24	Rev A	27/11/2019
House Type B6 Plans & Elevations	Drawing No. L(--)25	Rev A	27/11/2019
House Type C1 Plans & Elevations	Drawing No. L(--)30	Rev B	14/02/2020
House Type C2 Plans & Elevations	Drawing No. L(--)31		14/02/2020
Landscape Layout	Drawing No. L01	Rev D	27/11/2019
Proposed Drainage Layout	Drawing No. J2762-C-04	Rev F	16/07/2020

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

2. The access serving this site shall be a Road over which the public has a right of access in terms of the Roads (Scotland) Act 1984, and shall be constructed in consultation with the Council's Area Roads Manager having regard to Roads Construction Consent requirements which shall inform the final construction details, unless the prior consent for variation is obtained in writing from the Planning Authority.

Reason: In order to ensure that provision is made for a service "road" commensurate with the scale of the overall development and having regard to the status of the proposed access as a residential service road.

3. Prior to the construction of the dwellinghouses, sightlines of 75 metres from a 2.4 metre setback shall be provided from the proposed main vehicular access onto the A886 Strachur to Colintrave Road and no obstruction to visibility including walls, fences, hedges, vegetation or physical structures shall be permitted thereafter within the sightlines above a height of 1.0 metre from the level of the adjacent highway.

Reason: In the interests of road and public safety, and to ensure that appropriate sightlines onto the A886 Strachur to Colintrave Road can be maintained.

4. The visibility splays required for the individual dwellinghouse accesses shall be a minimum of 20 metres in each direction from a 2 metre setback. All walls, hedges and fences within the visibility splays shall be maintained at a height not greater than 1.0 metre above the road. These accesses must be a sealed surface for the first 5 metres behind the kerbline to minimise any debris from being deposited onto the road, their gradient not to exceed 5% for the first 5 metres and 8% for the remainder. A system of surface water drainage may be required to prevent water running onto the new road and footway. Accesses to be a minimum of 15 metres away from junctions.

Reason: In the interests of road safety.

5. The vehicular access shall be constructed 5.5 metres wide with a 2.0 metre wide footways and verges. Dropped kerbing to be provided to assist the safe passage of passing pedestrian traffic. The gradient of the access not to exceed 5% for the first 5 metres and not to exceed an absolute maximum of 10% for the remainder. The footways to be 2 metres wide with dropped kerbing at the junctions to assist pedestrian movements.

Reason: In the interests of road and pedestrian safety.

6. No dwellinghouse hereby approved shall be first occupied until its allocated parking spaces and turning head as shown on drawing ref. L(--)03 Rev H, has been constructed and made available for use and thereafter shall be retained for the parking of vehicles, unless agreed otherwise in writing with the planning authority. The allocated parking provision for the development will be based on 2no. spaces for each 2/3 bedroomed unit and 3no. spaces for 4 or more bedrooms.

Reason: In the interests of providing off-street car parking and turning provision.

7. Notwithstanding the provisions of Article 2(4) and Class 2B(1) of Part 1 of the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011, no additional windows or other openings from habitable rooms shall be installed in the gable elevations of the dwellinghouses without prior written consent of the Planning Authority.

Reason: In order to prevent the inclusion of any additional windows and other openings in side elevations, that could undermine the privacy and amenity of adjacent dwellinghouses.

8. Any trenches dug deeper than 50 cm shall have a ramp to allow any otters (and other species) to exit.

Reason: In order to minimise any potential impacts on otters and other species.

9. Where 12 months or more have elapsed between the timing of the Preliminary Ecological Appraisal (PEA) and Preliminary Roost Assessment (PRA) surveys hereby approved, and development commencing, further update survey(s) shall be undertaken on the site to determine any changes in the reported presence of, or potential for, any statutorily protected species, in particular for bats, otter, red squirrel, badger, reptiles and amphibians. The said survey(s) shall thereafter be submitted to and approved in writing by the Planning Authority before any development commences on the site. As a result of the survey(s), any avoidance, mitigation, enhancement or compensation measures required for any European Protected Species and or protected species, shall be detailed in a Species Protection Plan, which must be agreed in writing with the Planning Authority before works commence on the site. The Species Protection Plan(s) shall reflect the results of the updated survey(s) and the recommendations made in the PEA and PRA Report dated 17 January 2020 or the most up to date report whichever is applicable and be implemented in full as part of the development's Construction Method Statement.

Reason: To ensure compliance with The Conservation (Natural Habitats &c.) Regulations 1994 (as amended), the Wildlife and Countryside Act (1981) as amended, the Protection of Badgers Act (1992) as amended, and the Nature Conservation (Scotland) Act (2004).

10. No development shall commence unless and until the Planning Authority has approved in writing an independent Ecological Clerk of Works (ECoW) for the development [in consultation with SEPA]. The terms of the ECoW appointment shall include:
 - (i) A duty to monitor compliance with the ecological commitments provided in the PEA and PRA surveys dated 17 January 2020 or the most up to date report whichever is applicable;
 - (ii) A duty to monitor compliance with the Species Protection Plans contained within the development's Construction Method Statement;
 - (iii) A duty to report to the construction project manager any incidences of non-compliance at the earliest practical opportunity;
 - (iv) A duty to maintain records of all ecological inspections and observations made on the site during construction, and make these records available to the Planning Authority when requested;
 - (v) A duty to report to the Planning Authority any incidences of non-compliance with ecological commitments at the earliest practical opportunity.

The approved ECoW should be a Chartered Ecologist or be reporting directly to a Chartered Ecologist, and will be appointed on these approved terms throughout the period from 3 months prior to the commencement of the development, throughout any period of construction activity.

Reason: To ensure compliance with all recommendations and commitments made in the PEA and PRA Report dated 17 January 2020 or the most up to date report whichever is applicable. The approved ECoW should be a Chartered Ecologist or be reporting directly to a Chartered Ecologist, and will be appointed on these approved terms throughout the period from 3 months prior to the

commencement of the development, throughout any period of construction activity.

11. Site clearance activities, and where possible construction, must take place out with the bird breeding season (March-July inclusive) unless pre-works checks have been undertaken and recorded by the ECoW and the ECoW has given explicit advice that no breeding birds are present.

Reason: To ensure compliance with the Wildlife and Countryside Act (1981) as amended, the Nature Conservation (Scotland) Act (2004), and recommendations made in the PEA and PRA Report dated 17 January 2020 or the most up to date report whichever is applicable.

12. No earlier than 3 months prior to the commencement of development, a detailed survey of Invasive Non-Native Species (INNS) will be undertaken for the site, and an Invasive Species Management Plan (ISMP) will be produced on the basis of the findings of this survey. The Invasive Non-Native Species Management Plan will be implemented in full as part of the development's Construction Method Statements.

Reason: To ensure compliance with the Wildlife and Countryside Act (1981) as amended, the Wildlife and Natural Environment (Scotland) Act (2011), and recommendations made in the PEA and PRA Report dated 17 January 2020 or the most up to date report whichever is applicable.

(Reference: Report by Head of Development and Economic Growth dated 7 October 2020, submitted)

5. BUTE ISLAND FOODS LTD: ERECTION OF FOOD PRODUCTION FACILITY AND ASSOCIATED WORKS (REVISED PROPOSAL RELATIVE TO PLANNING APPLICATION REFERENCE 20/00333/PP TO INCORPORATE REMOVAL OF NEW ACCESS ONTO BARONE ROAD, USE OF EXISTING ACCESS ONTO MEADOWS ROAD FOR ALL VEHICLES AND INCREASE IN NUMBER OF OFF-STREET PARKING SPACES TO 78): FORMER GAS NETWORK SITE, MEADOWS ROAD, ROTHESAY, ISLE OF BUTE (REF: 20/01441/PP)

The Planning Officer spoke to the terms of the report and to supplementary report number 1. This application site is located adjacent to the junction of Barone Road and Meadows Road in the south-western part of Rothesay. It extends to approximately 1.17 hectares and was formerly used for the storage of Liquefied Natural Gas although it has been vacant for a number of years. The proposal involves the erection of a food production facility by Bute Foods who, with its produce Sheese, has established itself as a market leader of manufacturing vegan and dairy free cheese. The proposal has attracted 74 objectors, 33 supporters and a petition in support containing a total of 100 signatures. The issues raised are detailed at section P of the report of handling and in supplementary report number 1.

As the proposal has generated a significant number of objections, primarily from local residents, and a number of expressions of support it is considered that value would be added to the process by holding a discretionary hearing in advance of determining this application.

Motion

To agree to hold a pre-determination hearing in respect of this application.

Moved by Councillor Jean Moffat, seconded by Councillor Gordon Blair

Amendment

To agree not to hold a hearing in respect of this application.

Moved by Councillor George Freeman, seconded by Councillor Rory Colville

A vote was taken by calling the roll.

Motion

Amendment

Cllr G Blair
Cllr M J Devon
Cllr L Douglas
Cllr A Forrest
Cllr R McCuish
Cllr J Moffat
Cllr S Taylor
Cllr R Trail

Cllr R Colville
Cllr G Freeman
Cllr G A Hardie
Cllr D Kinniburgh
Cllr D MacMillan

The Motion was carried by 8 votes to 5 and the Committee resolved accordingly.

The Committee then debated the merits of holding a site inspection.

Motion

To agree to proceed with a virtual site visit and virtual hearing.

Moved by Councillor David Kinniburgh, seconded by Councillor George Freeman

Amendment

To agree to proceed with an actual site visit.

Moved by Councillor Jean Moffat, seconded by Councillor Audrey Forrest

A vote was taken by calling the roll.

Motion

Amendment

Cllr R Colville
Cllr G Freeman
Cllr G A Hardie
Cllr D Kinniburgh
Cllr D MacMillan
Cllr R McCuish
Cllr S Taylor
Cllr R Trail

Cllr G Blair
Cllr M J Devon
Cllr L Douglas
Cllr A Forrest
Cllr J Moffat

The Motion was carried by 8 votes to 5 and the Committee resolved accordingly.

Decision

The Committee agreed to hold a virtual pre-determination hearing and virtual site visit. Additional information on the site would be provided at the hearing through photographs, satellite imagery or video.

(Reference: Report by Head of Development and Economic Growth dated 9 October 2020 and Supplementary Report Number 1 dated 20 October 2020, submitted)

6. MACLEOD CONSTRUCTION: MASTERPLAN TO PDA 10/15 FOR RESIDENTIAL DEVELOPMENT AS IDENTIFIED IN THE ADOPTED ARGYLL AND BUTE LOCAL DEVELOPMENT PLAN 2015: LAND AT IMERAVAL, PORT ELLEN, ISLE OF ISLAY: PDA 10/15 (REF: 20/01281/MPLAN)

The Area Team Leader for Mid Argyll, Kintyre and the Islands spoke to the terms of the report. Imeraval lies to the west of Port Ellen and is designated in the current adopted Local Development Plan (LDP) as having the potential for low density housing development with a 25% requirement for affordable housing. Under these designations, a Masterplan is required as part of the determination of any planning application. A Masterplan has previously been approved under reference 15/02954/MPLAN. This proposal represents a significant uplift in the density aspirations of the LDP. Low density is described as 11 units per hectare whilst this Masterplan provides for 17 per ha. Despite this the vast majority of units are affordable which is welcomed by Officers. In this regard the proposal is a departure from the aspirations of the LDP. However there is a greater demand now for affordable housing than initially envisaged on the island at the time of writing the LDP and the delivery of this is best placed on allocations and PDAs given access to transport modes, settlement boundaries etc. A recent Islay Strategic Housing Overview identified a need for housing. The Masterplan, whilst indicative, gives all interested parties and statutory consultees sufficient detail to assess the future development of the site. Assessed against Development Plan policy and other material considerations the components of the phased housing development scheme are considered to be compatible with PDA 10/15 and the potential constraints to development acknowledged within its accompanying schedule.

It is recommended that the Masterplan be approved and endorsed as a material consideration in the assessment of any future planning applications on the site.

Decision

The Committee agreed to approve and endorse the Masterplan as a material consideration in the assessment of any future planning applications on the site.

(Reference: Report by Head of Development and Economic Growth dated 8 October 2020, submitted)

7. MCFADYENS CONTRACTORS (CAMPBELTOWN) LTD: PROPOSAL OF APPLICATION NOTICE FOR PROPOSED EXTRACTION, PROCESSING AND DESPATCH OF SAND AND GRAVEL: AROS FARM, CAMPBELTOWN (REF: 20/01463/PAN)

The Area Team Leader for Mid Argyll, Kintyre and the Islands spoke to the terms of the report. A proposal of application notice (PAN) has been submitted for a new quarry at Aros Farm, Campbeltown which lies to the south of Machrihanish airbase. This is a new quarry proposal given Langa sand and gravel is coming to the end of its operational life. The land is currently agricultural and extends from the edge of the airbase to the Machrihanish Water. Access is proposed from a minor road that serves the farm off the A843. The report summarises the policy considerations as well as potential material considerations and key issues based upon the information received to date.

It is recommended that Members note the content of the report and submissions and provide such feedback as they consider appropriate in respect of this PAN to allow these matters to be considered by the Applicants in finalising any future planning application submission.

Decision

The Committee noted the content of the report and raised no further issues for consideration by the Applicant in finalising any future planning submission.

(Reference: Report by Head of Development and Economic Growth dated 8 October 2020, submitted)

8. ARDNAHOE DISTILLERY COMPANY LTD: PROPOSAL OF APPLICATION NOTICE FOR THE ERECTION OF WHISKY MATURATION WAREHOUSE AND ASSOCIATED WORKS: ARDNAHOE DISTILLERY, PORT ASKAIG, ISLE OF ISLAY (REF: 20/01714/PAN)

The Area Team Leader for Mid Argyll, Kintyre and the Islands spoke to the terms of the report. A proposal of application notice (PAN) has been submitted for whisky maturation warehousing and associated works at Ardnahoe Distillery, Islay. The site is located in the north of the island along the UC010 which serves both Ardnahoe and Bunnahabhain distilleries. The proposed location of the maturation warehouses is to the immediate north of Ardnahoe Distillery. The site extends to an area in excess of 2ha and is bounded west and north by steep rising topography and the public road. The site looks out over the Sound of Jura to the east and the distillery to the south. Access will be afforded via the existing infrastructure at Ardnahoe. The report summarises the policy considerations as well as potential material considerations and key issues based upon the information received to date.

It is recommended that Members note the content of the report and submissions and provide such feedback as they consider appropriate in respect of this PAN to allow these matters to be considered by the Applicants in finalising any future planning application submission.

Decision

The Committee noted the content of the report and raised no further issues for consideration by the Applicant in finalising any future planning submission.

(Reference: Report by Head of Development and Economic Growth dated 8 October 2020, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held BY SKYPE
on WEDNESDAY, 21 OCTOBER 2020**

Present: Councillor David Kinniburgh (Chair)

Councillor Gordon Blair
Councillor Rory Colville
Councillor Mary-Jean Devon
Councillor Lorna Douglas
Councillor Audrey Forrest
Councillor Graham Hardie

Councillor Donald MacMillan BEM
Councillor Roderick McCuish
Councillor Jean Moffat
Councillor Sandy Taylor
Councillor Richard Trail

Attending: Patricia O'Neill, Governance Manager
Sheila MacFadyen, Senior Solicitor
Thomas O'Donnell, Applicant

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated on behalf of Councillors Robin Currie, George Freeman and Alastair Redman.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF PRIVATE HIRE CAR OPERATOR LICENCE (T O'DONNELL, DUMBARTON)

The Chair welcomed everyone to the meeting. In line with recent legislation for Civic Government Hearings, the Applicant was given options for participating in the meeting today. The options available were by Video Call, by Audio Call or by written submission. For this hearing the Applicant opted to proceed by way of Audio Call.

The Chair then outlined the procedure that would be followed and invited the Applicant to speak in support of his application.

APPLICANT

The Applicant advised that he had been asked to work in the area a few years ago but had not taken the opportunity at this time, he had now agreed to apply for a licence to work in the area to allow him to get back into work. The Applicant stated that he currently held a licence for the Dumbarton area but had not been using it since before March as he lived with an elderly relative and did not want to risk infection being brought into the house.

The Chair then invited Members questions.

MEMBERS' QUESTIONS

Councillor Colville sought and received confirmation from the Applicant that it was his intention to operate in the Helensburgh area and not across Argyll and Bute as a whole.

Councillor Moffat sought and received confirmation from the Applicant that he currently held a licence to operate in the Dunbarton area and asked why he would like to operate in Helensburgh. The Applicant advised that he would like to operate in the area using his own vehicle.

Councillor Colville sought clarity around the involvement of the applicant with Trident Taxis, as outlined in the application. The Applicant confirmed that he would likely work with Trident Taxis. Councillor Colville sought and received confirmation from the Applicant that he would not encourage people to come to Helensburgh to take advantage of the recent changes in licencing laws.

Councillor Kinniburgh confirmed with the Applicant that he currently held a licence as a taxi driver for West Dunbartonshire Council. Councillor Kinniburgh asked the Applicant why he would like to operate a private hire licence in Helensburgh, instead of in West Dunbartonshire. The Applicant advised that he had been asked by friends who had bought Trident Taxis to work with them a few years ago and had declined, however he had agreed to apply when they had asked again for assistance recently. Councillor Kinniburgh received confirmation from the Applicant that he worked for another party in West Dunbartonshire and asked the Applicant if he intended to continue working with them. The Applicant advised that it would be his intention to work in Helensburgh full time.

Councillor Kinniburgh noted that based on a recent survey carried out by LVSA, there was no overprovision of private hire vehicles in the Helensburgh area, however this could have been affected by the Covid19 pandemic. Councillor Kinniburgh sought clarification around the Applicants views on the impact of Covid19 on this industry and on what basis the Applicant believed that there was enough business in the area to make it viable. The Applicant advised that he believed there to be enough business in the area due to what he had been told by a number of people who work in the area for Trident who had confirmed that they were busy and at times could not cover all the work.

Councillor McCuish asked if it was the Applicant's intention to use his licence in West Dunbartonshire and Argyll and Bute. The Applicant advised that he did not intend to renew his licence with West Dunbartonshire.

Councillor Devon sought and received confirmation from the Applicant that it was his intention that he would use his own car when operating in Helensburgh.

Councillor Kinniburgh sought and received clarification from the Applicant that he would be using his own car but working for Trident and using their app to get hires.

Councillor Kinniburgh requested information from the Applicant around what measures would be in place in the vehicle to comply with Covid19 regulations. The Applicant confirmed that he would wear a face mask when driving, ask passengers to wear a face mask where appropriate and fit a screen to the car.

Councillor Blair expressed concerns around the cost effectiveness of the business given the size and age of the vehicle and noted that he did not understand why there had been no objections to the application when it was his belief that usually, under the same circumstances, there would have been. Councillor Blair noted that a requirement for more

private hires was not reflected in the statistics of the recent LVSA survey and that this information was available to all local drivers and companies.

Councillor Kinniburgh noted that it was his belief that Covid19 has had a negative impact on the taxi and private hire trade and asked Mrs MacFadyen if any weight could be given to this when considering the application, despite the fact that the LVSA report carried out prior to the Covid19 pandemic advised that there was no overprovision of private hire vehicles in Argyll and Bute. Mrs MacFadyen advised that there was no evidence before the Committee to reflect this view and that the Committee could only consider the information before them which stated that there was no over provision of private hire vehicles in the Argyll and Bute or Helensburgh area.

Councillor Colville questioned whether the MOT for the private hire vehicle would be updated prior to operating as it was noted on the application form that the MOT had expired in June 2020. The Applicant confirmed that he would arrange for the MOT to be renewed prior to operating as a private hire. Mrs MacFadyen noted that she was unsure whether this would be affected by the extension to MOTs put in place due to the Covid19 pandemic, and confirmed that the MOT would require to be renewed prior to operating as a private hire. Councillor Kinniburgh advised that the vehicle in question currently had an MOT in place until 28th December 2020 due to the extension. Councillor Colville expressed concern that vehicles carrying members of the public as private hire vehicles or taxis fit into the same category as private cars in this sense. Councillor Kinniburgh noted that in terms of the extension, it was up to the owner of the vehicle to ensure that it was in roadworthy condition.

SUMMING UP

Applicant

The Applicant confirmed that he would arrange for the car to obtain a new MOT certificate prior to being used as a private hire vehicle and noted that it should pass as the vehicle was in good condition.

When asked, the Applicant confirmed that he had received a fair hearing.

DEBATE

Councillor McCuish advised that he was comforted by the fact that the Applicant had confirmed that he was not intending to operate in both Dumbarton and Helensburgh. Councillor McCuish noted that based on the evidence in front of the Committee today, he could see no reason not to grant the application.

Councillors Moffat, Hardie and Blair confirmed that they were in agreement with Councillor McCuish.

Councillor Kinniburgh noted that he had difficulty with this application as he felt that there were a lot of taxis and private hire vehicles on the road in Helensburgh, however as there was no evidence to back this view he stated that it was not possible to move that the licence not be granted. Councillor Kinniburgh noted that in light of the Covid19 restrictions it may come to a point where evidence is required to confirm whether there is an overprovision of taxi and private hire vehicles in the area, however based on the current information he would agree with other Members views to grant the licence.

Mrs MacFadyen requested that evidence of the new MOT certificate for the vehicle was forwarded by the Applicant to the licencing team when available.

DECISION

The Committee unanimously agreed to grant a Private Hire Car Operator Licence to Mr O'Donnell.

(Reference: Report by Head of Legal and Regulatory Support, submitted)

Councillor Taylor joined the meeting during the foregoing item and refrained from participation in determining this application.

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held BY SKYPE
on WEDNESDAY, 21 OCTOBER 2020**

Present: Councillor David Kinniburgh (Chair)

Councillor Gordon Blair	Councillor Donald MacMillan BEM
Councillor Rory Colville	Councillor Roderick McCuish
Councillor Mary-Jean Devon	Councillor Jean Moffat
Councillor Lorna Douglas	Councillor Sandy Taylor
Councillor Audrey Forrest	Councillor Richard Trail
Councillor Graham Hardie	

Attending: Patricia O'Neill, Governance Manager
Sheila MacFadyen, Senior Solicitor
Stuart McLean, Committee Manager

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Robin Currie, George Freeman and Alastair Redman.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF PRIVATE HIRE CAR OPERATOR LICENCE (S MCINTYRE-STEWART, GARELOCHHEAD)

The Chair welcomed everyone to the meeting. In line with recent legislation for Civic Government Hearings, the Applicant was given options for participating in the meeting today. The options available were by Video Call, by Audio Call or by written submission. For this hearing the Applicant opted to proceed by way of a written submission and this was circulated to the Committee in a Supplementary Agenda Pack for this hearing.

Councillor Kinniburgh commented on the increase of Private Car Hire Operator Licence applications in relation to Taxi Operator Licences and expressed his concerns in this regard. He acknowledged that there needed to be evidence to back up over provision especially in view of Covid. He noted that the current survey concluded that there was no over provision of Private Hire Car Operator Licences. He sought and received confirmation from Mrs MacFadyen that a further survey would be required to establish whether or not the current situation with the Covid pandemic had a bearing on whether or not there was now an over provision of Private Hire Car Operator licences. Mrs MacFadyen pointed out that Private Hire Car Operators could operate anywhere in Argyll and Bute. She advised that she could enquire if LVSA would be able to undertake a small survey for Helensburgh but there may still be a requirement to go out to tender for any future surveys.

Councillor Kinniburgh asked if it would be possible for the Council to put a cap on the number of private hire vehicles. Mrs MacFadyen advised that there would need to be a justification for doing that. She said there would also need to be consideration of whether or not to move to localities for private hire cars as was the case for taxis.

Councillor McCuish asked if there was any Covid legislation or emergency powers that would allow the Council to pause the processing of Private Hire Car Operator applications. Mrs MacFadyen explained that there was existing emergency legislation, some of which applied to Civic Government Licensing. This was in respect of holding hearings and the timescale for processing applications. There was nothing in relation to reducing the number of taxis or private hire cars and it would not be possible to refuse the receipt of applications.

Councillor Colville referred to the letter submitted by the Applicant which said that he had previously held a Private Hire Licence which expired in 2017. He sought and received confirmation that TfL stood for Transport for London.

Councillor Kinniburgh sought and received confirmation from Mrs MacFadyen that the Applicant had an Argyll and Bute Council Taxi Driver Licence. This was granted in May 2020 and was due to expire in May 2023.

Councillor Colville expressed his surprise that there had been no representations or objections received in respect of this application and asked if these were being advertised in the same way due to Covid. Councillor Kinniburgh advised that these applications were currently being advertised online. He added that he believed no objections were being submitted as due to the most recent survey advising there was no over provision of private hire cars there were limited grounds for refusing an application and, therefore, limited point in objecting.

Councillor Blair referred to the questions asked on application forms and asked if these could be changed or added to in order to obtain more background information on an applicant. He also asked if applications could be completed online. Mrs MacFadyen advised that applications for Private Hire Car Operator Licences could not be submitted online as the Applicant had to provide evidence that they were allowed to work in the UK. She pointed out that application forms were different in each local authority area and said that in terms of questions asked these needed to be relevant and reasonable.

Councillor Colville asked why this application had come to a hearing when there had been no representations or objections received from anyone. Mrs MacFadyen advised that Members had previously requested that all Private Hire Car Operator Licence applications come before the Committee irrespective of objections. She advised that the Committee could reverse this position.

Councillor Colville questioned whether it was a good use of Officer and Committee time to have applications before the Committee that had no objections.

Councillor Kinniburgh advised that he shared Councillor Colville's concerns, but he found it beneficial to know how many Private Hire Vehicles were out there. He commented that if the applications did not come to Committee licences would get granted and the Committee would not be aware of these. Mrs MacFadyen advised that if Members were minded to delegate to Officers Private Hire Car Operator

Licence applications which had not been objected to, a report could be provided to the Committee advising on applications granted.

Councillor Kinniburgh advised it was his opinion that the Committee had no option but to grant this application as there was no evidence available to justify refusing the application.

DECISION

The Committee agreed to grant a Private Hire Car Operator Licence to Mr McIntyre-Stewart.

(Reference: Report by Head of Legal and Regulatory Support and Applicant's written submission, submitted)

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held BY SKYPE
on WEDNESDAY, 21 OCTOBER 2020**

Present: Councillor David Kinniburgh (Chair)

Councillor Gordon Blair	Councillor Graham Hardie
Councillor Rory Colville	Councillor Roderick McCuish
Councillor Mary-Jean Devon	Councillor Jean Moffat
Councillor Lorna Douglas	Councillor Sandy Taylor
Councillor Audrey Forrest	Councillor Richard Trail

Attending: Patricia O'Neill, Governance Manager
Sheila MacFadyen, Senior Solicitor
Newton Keenan, Applicant
Stuart McLean, Committee Manager

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Robin Currie, George Freeman, Donald MacMillan and Alastair Redman.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TAXI DRIVER LICENCE (N KEENAN, CLYDEBANK)

The Chair welcomed everyone to the meeting. In line with recent legislation for Civic Government Hearings, the Applicant and Police Scotland were given options for participating in the meeting today. The options available were by Video Call, by Audio Call or by written submission. For this hearing the Applicant opted to join the meeting by Audio Call and Police Scotland opted to proceed by way of a written submission.

The Chair then outlined the procedure that would be followed and invited the Applicant to speak in support of his application.

APPLICANT

Mr Keenan advised that he applied to the Council for a Taxi Driver Licence back in September 2020. He said he had been unaware there was any issue with his application until a member of staff from the Council's Licensing Team advised that a letter had been received from Police Scotland regarding a driving offence. Mr Keenan said that he had been caught speeding at 40 mph in a 30 mph zone in Helensburgh. He said that at that time he lived in Rhu but had since moved. He said the incident occurred last year. He advised that he had received no correspondence at his new address that there was an unpaid fine and that the case was going to Court. He advised that he was subsequently informed by Police Scotland that he had to appear in Court. He said that 2 days before the Court case

in January 2020 he had gone to the Procurator Fiscal (PF) office and pled guilty. He advised that he heard nothing from the Court until September 2020 when he was sent out a fine for £175 and had his licence endorsed with 3 penalty points. He said he paid the fine the same day. He said that he had spoken to the PF Office, the Licensing Department in the Council and the Licensing Section in Police Scotland and all had confirmed that the fine had been paid but it was not possible to stop the letter of representation which had already been submitted. Mr Keenan advised that notification of the 3 penalty points was submitted to the Council as part of his application. He said again that he had received no correspondence from the Sheriff's Office from January until September this year but once this was received the fine was paid immediately.

POLICE SCOTLAND

The Governance Manager referred to a letter of representation from the Chief Constable which was included within the Agenda Pack issued for this hearing. The letter advised that Mr Keenan had been convicted at Court on 28 January 2020 under the Road Traffic Regulation Act 1984 Section 81 & 89 as the result of a speeding offence on 14 July 2019. Mr Keenan was fined £175 and had his licence endorsed with 3 penalty points.

MEMBERS' QUESTIONS

Councillor Kinniburgh sought and received confirmation from Mr Keenan that the incident took place in July 2019 and the fine was paid in September 2020.

Councillor Kinniburgh asked why the Applicant had not paid the fixed penalty fine at the time of the incident. Mr Keenan explained that he had done, but the cheque sent to the PF was never cashed and he was not aware of this fact until the Police turned up at his home with a citation to come to Court. Mr Keenan advised that he went to the PF Office in Dumbarton and filled out the necessary forms to plead guilty to the offence. The court case was 2 days later and he was not required to attend. He said he had heard nothing further about the case until September this year.

Councillor Kinniburgh asked Mr Keenan if he had attended the PF Office to pay the fixed penalty fine. Mr Keenan said no he had attended the PF Office because he had received notification of the Court case. He advised that he filled out the necessary paperwork to plead guilty and was not notified of the outcome until September 2020. He explained that when the offence took place he lived at Cumberland Road and that he had moved from there in October 2019. The PF Office staff said they had been unable to contact him at his old address. They then contacted him at his new address to advise of the Court case. He said that when he went to the PF office he showed them the stub from his cheque book to show that he had paid the fine at the time of the offence. They advised that the cheque had never been cashed and he said that no one had contacted him in the interim until the Court date was set in January 2020.

Councillor Kinniburgh sought and received confirmation that Mr Keenan went to the PF when he was notified of the Court case. Mr Keenan also confirmed that he pled guilty but did not hear anything further until the Sheriff Office bill was sent in September 2020 for £175. He confirmed that he would have paid the fine sooner if they had notified him sooner.

Councillor Colville sought and received confirmation from Mr Keenan that he was driving his own car at the time of the offence. He said he only applied for a Taxi Driver Licence 2 months ago.

Councillor Colville commented that he really did despair of taxis that drove through his home town and appeared to be exceeding the 30 mph speed limit. He acknowledged that Mr Keenan was not driving a taxi at the time of the incident. Mr Keenan confirmed that he was returning home from walking his dog. He confirmed that he was guilty and apologised for that and said that it would never happen again. He said that he had never had points on his driving licence before.

Councillor Colville said that he would be taking a different view if Mr Keenan had been driving a taxi at the time of the incident. Mr Keenan advised that he has been driving for 30 years and had never received any points until that day.

Councillor Kinniburgh asked Mr Keenan if he had notified the Council of his conviction. Mr Keenan said yes. He explained that as part of the application you had to include a copy of your driving licence along with a DVLA code to check for any penalty points. Mrs MacFadyen confirmed that the DVLA print out had the points on it but this information was not included on the taxi application form.

Councillor Kinniburgh asked Mr Keenan why he had not disclosed the conviction on the application form. Mr Keenan explained the mix up with the cheque not being cashed and the timeline of events regarding when he was notified of the Court case and the outcome of this. He acknowledged that it was his mistake not to have included this on the application form and advised that he did not try not to pay or be fraudulent.

Councillor Colville sought and received confirmation from Mrs MacFadyen that the Licensing staff would have checked all the paperwork submitted by Mr Keenan, including his driving licence and DVLA summary record.

Councillor Colville sought and received confirmation from Mrs MacFadyen that it would be fair to say that Mr Keenan had not hidden anything as his conviction would have been picked up by staff when checking the paperwork submitted.

Councillor Colville asked if it would normally be brought to the Committee's attention if a conviction was not declared. Mrs MacFadyen said that this would be referred to the Head of Service to make a decision as to whether or not it needed to come to Members or not.

Councillor Kinniburgh sought and received confirmation from Mrs MacFadyen that the reason this application was before the Committee was because a Police representation had been received. She said all applications the subject of a Police representation or objection were automatically referred to the Committee.

SUMMING UP

Mr Keenan clarified that when he spoke to Police Scotland Licensing Department at West Dunbartonshire they had confirmed that a letter of representation was submitted to advise of his driving offence and conviction. He said he believed this was flagged up and referred to Committee. He said he believed the letter of

representation was submitted before the fine was paid. He advised that it had been confirmed to him that everything was in order now and that the fine had been paid.

Mr Keenan confirmed that he had received a fair hearing.

DEBATE

Councillor Colville advised that on balance from what he had heard there was reasonable grounds to understand the position the Applicant was in. He said that he took a dim view of taxis speeding through the town. He advised that he was satisfied that there had been no genuine attempt to hoodwink the Committee and given that fact he would be happy to grant the Licence.

Councillor Moffat agreed with Councillor Colville's comments. She said that she felt the Applicant had been honest and had simply been caught up in something unfortunate.

Councillor Blair also agreed with his colleagues' comments. He said he was slightly disappointed with the timeline involved. He said he liked to think the Council's taxi drivers were conscientious folks doing their best.

Councillor Kinniburgh said he found the timeline of events strange but had no reason to doubt that was what actually happened. He advised that he had listened to what the Applicant had to say and that he had no difficulty in granting the Licence. He said that he agreed with what Councillor Colville had said that a more serious view would have been taken if the Applicant had been driving a taxi at the time of the offence. He said that he hoped Mr Keenan would not speed in his taxi.

DECISION

The Committee agreed to grant a Taxi Driver's Licence to Mr Keenan and noted that his Licence would not be issued until after the 28 day appeal period was over.

(Reference: Report by Head of Legal and Regulatory Support, submitted)

CIVIC GOVERNMENT (SCOTLAND) ACT 1982**PRIVATE HIRE CAR LICENCE APPLICATIONS**

1. EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to invite members to amend the procedure for determining private hire car licence applications by returning to the previous process whereby unopposed applications may be granted by officers on a delegated basis.

2. RECOMMENDATIONS

- 2.1 Members are invited to agree that all future unopposed applications for private hire car licences may be granted by officers on a delegated basis.
- 2.2 Members are further invited to agree that officers will prepare periodic reports for the Planning, Protective Services and Licensing Committee providing updates on the number of private hire cars and taxis across the Licensing Authority's area.

CIVIC GOVERNMENT (SCOTLAND) ACT 1982
PRIVATE HIRE CAR LICENCE APPLICATIONS

1. SUMMARY

- 1.1 The purpose of this report is to invite members to amend the procedure for determining private hire car licence applications so that generally, only applications where relevant objections or representations have been lodged will be required to come before the Committee for a hearing.
- 1.2 This report has been produced following publication of the Scottish Government's best practice guidance on the power to refuse to grant private hire licences on the grounds of overprovision.

2. RECOMMENDATIONS

- 2.1 Members are invited to agree that all future unopposed applications for private hire car licences may be granted by officers on a delegated basis.
- 2.2 Members are further invited to agree that officers will prepare periodic reports for the Planning, Protective Services and Licensing Committee providing updates on the number of private hire cars and taxis across the Licensing Authority's area.

3. DETAIL

- 3.1 On 23rd October 2019, the Committee agreed to note the contents of a survey, carried out by LVSA which (amongst other things) assessed the provision of private hire cars in Bute and Cowal; Helensburgh and Lomond; Mid Argyll, Kintyre and Islay; and Oban, Lorn and the Isles. Members also agreed to have such regard as they see fit to the results of the survey in determining applications for private hire car licences that come before them.
- 3.2 Members further agreed that that all future applications for private hire car licences should come to the PPSL Committee for determination and, once the Scottish Government has published best practice guidance on private hire overprovision, officers

should bring a report to the Committee for consideration.

- 3.3 On 24th October 2019, the Scottish Government released its non-statutory guidance relating to the discretionary power of local authorities to refuse to grant private hire vehicle licences on the grounds of overprovision as provided for in Section 10 of the *Civic Government (Scotland) Act 1982*. These provisions were inserted into the 1982 Act by the *Air Weapons and Licensing (Scotland) Act 2015*, and were commenced on 1st May 2017. The Best Practice Guidance is attached as **Appendix 1**.
- 3.4 The LVSA survey, considered by members on 23rd October 2019, concluded that there is no overprovision of private hire car services in each of the four administrative areas, in any of the localities within those areas, or across Argyll and Bute as a whole.
- 3.5 All four reports produced as part of the survey concluded that no public dis-benefit was associated with any overprovision of private hire cars; there was no identified benefit which could be associated with implementing a limit to the number of private hire cars; and a modest increase in the provision of private hire cars is unlikely to result in a public dis-benefit in any localities within each of the respective zones.
- 3.6 Having regard to the survey findings, and the associated Scottish Government Guidance, it is considered that an overprovision policy is not appropriate at the present time given that no overprovision of private hire cars has been identified in Argyll and Bute.
- 3.7 Therefore, it is proposed that the Committee reverts to the position prior to 23rd October 2019, whereby only applications in relation to which a relevant objection and/or representation has been lodged are required to come before the Committee for a hearing. Unopposed applications will generally be granted by officers using delegated powers by virtue of Section 3 (B) 19 of Part C to Argyll and Bute Council's Constitution:
- "19. To consider and determine, where unopposed, applications under Parts I, II and III and V of the Civic Government (Scotland) Act 1982; and to keep under review, where appropriate, the levels of fees charged for particular licences, and the level of taxi fares throughout the area of the Council."*
- 3.8 As stated above, the survey concluded that there is no overprovision of private hire cars in Argyll and Bute. Accordingly, there would not currently appear to be sufficient evidence for the Committee to refuse a private hire car licence application on this particular ground. Therefore, in relation to unopposed applications - where no objections or representations being

lodged would mean that there is likewise no evidential basis to rely on one of the other statutory grounds of refusal (under Paragraph 5 of Schedule 1 to the 1982 Act) - the above delegation allows said uncontentious applications to be granted without the need to constitute a hearing.

- 3.9 Despite none of the four reports providing evidence of private hire car overprovision, on which a refusal on that specific ground could be based, it is appreciated that the Committee may wish to continue to monitor the number of licences issued, and to have particular regard to the survey reports in light of these trends. Therefore, it is further recommended that officers produce periodic reports providing updates on the numbers of private hire cars and taxis so that these can be monitored by the Committee on a continuing basis.
- 3.10 In regard to the present position, the LVSA surveys reported that there were 67 private hire cars licensed across Argyll and Bute. At the time of writing there are now 76 private hire cars licensed in Argyll and Bute.

4. CONCLUSIONS

- 4.1 The recent LVSA taxi and private hire car survey identifies that for each of the four administrative areas, localities within those areas, and across the whole Argyll and Bute area there is no overprovision of private hire car services. Section 10(3A) of the *Civic Government (Scotland) Act 1982* provides that a licensing authority may refuse the grant of a private hire car licence if they are satisfied that there is an overprovision of private hire car services. The findings of the survey will require to be kept in mind by members when determining any new applications, particularly if the Committee are presented with evidence in the future that overprovision of private hire car services does exist. However, even if overprovision is subsequently established, the discretionary nature of Section 10 does not preclude the Committee from granting an application if they are satisfied there are good reasons for doing so.

5. IMPLICATIONS

Policy: If the recommendations in this report are approved, all future unopposed applications for private hire car licences will generally be granted by officers under delegated powers, as was previously the case.

Financial: None.

Legal: Applications for private hire car licences require

to be dealt with in accordance with the provisions of the *Civic Government (Scotland) Act 1982*, as amended.

Personnel: None.

Equalities: None.

Risk: None.

APPENDICES

1. Scottish Government Guidance: *Civic Government (Scotland) Act 1982 – Guidance on Power to Refuse to Grant Private Hire Car Licences on Grounds of Overprovision*, October 2019

Douglas Hendry

Executive Director with responsibility for Legal and Regulatory Support

Policy Lead: Councillor David Kinniburgh

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Appendix 1

Civic Government (Scotland) Act 1982

Guidance on Power to Refuse to Grant Private Hire Car Licences on Grounds of Overprovision

Introduction

1. Taxi and private hire car services play an essential part in local transport networks, providing an invaluable service for both residents and visitors to Scotland. The aim of a licensing regime is amongst other things, the preservation of public safety and order and the prevention of crime. The licensing regime for taxis and private hire cars therefore needs to ensure that customers have a safe, reliable and accessible service.
2. The legislative framework for the optional licensing and regulation of taxis and private hire cars is provided for under sections 10 to 23 and schedule 1 of the Civic Government (Scotland) Act 1982¹ (the “1982 Act”). Scottish local licensing authorities are responsible for the creation, management and enforcement of local taxi and private hire car licensing regimes. Differing approaches to aspects of the regimes are often adopted to allow individual authorities to respond most appropriately to local concerns and apply a regime that best meets the specific needs of their local area.

Guidance

3. This non-statutory guidance relates to the discretionary power of local licensing authorities to refuse to grant private hire car vehicle licences on the grounds of overprovision as provided for in section 10 of the 1982 Act. This power was introduced into section 10 following amendments made by section 63 of the Air Weapons and Licensing (Scotland) Act 2015² (“the 2015 Act”), which came into force on 1 May 2017. These powers do not apply to the renewal of existing licences.
4. As a first step, local licensing authorities will have to decide whether or not they wish to undertake an assessment of overprovision of private hire cars.
5. If it is decided to proceed, the local licensing authority will need to undertake an assessment of whether there is any evidence of overprovision in their localities.
6. This guidance is intended to support licensing authorities in the use of the new power to refuse to grant a private hire car vehicle licence on grounds of overprovision.
7. Where possible the guidance provides examples of good practice for the assistance of local licensing authorities.
8. The guidance should not be taken as an authoritative statement as to the law. Local licensing authorities must ensure that their procedures enable them to comply with the requirements of the legislation. The interpretation of the law is ultimately a matter for the courts. This guidance should not be seen as a replacement for independent legal advice.

¹ <https://www.legislation.gov.uk/ukpga/1982/45/contents>

² <http://www.legislation.gov.uk/asp/2015/10/section/63>

Legislative background

9. During the parliamentary passage of the Bill for the 2015 Act, the Stage 1 report queried the need for different tests to be used for taxis and private hire cars but otherwise supported the proposal. The Scottish Government's response to the Committee explained that different tests were required as private hire cars must be pre booked and cannot be ranked and hailed like taxis. Existing unmet demand tests for taxis rely on the fact that taxis operate from taxi ranks and can be hailed.
10. The Scottish Government also agreed to develop guidance for the local licensing authorities to support the overprovision assessment for private hire cars.
11. The Scottish Government believes that this discretionary power will enable local licensing authorities to ensure the public, when they are customers, can expect a safe and appropriate service.

Deciding whether to undertake an overprovision assessment

12. It is for individual licensing authorities to decide whether they wish to undertake an overprovision assessment. In considering this matter they may wish to take into account factors such as:
 - whether they already restrict taxi vehicle numbers
 - views from the trade, both taxis and private hire car businesses
 - overall trends in vehicle numbers, are private hire car vehicle numbers increasing?
 - churn, with licence holders failing to renew vehicle licences.

Determining localities

13. If it is decided to undertake an overprovision assessment, then the licensing authority will have to determine localities within their area for the purposes of the overprovision assessment. In doing this, the licensing authority may determine that the whole of their area is to be treated as a single locality.
14. For the purposes of undertaking an assessment of overprovision of private hire car services, section 10(3B) of the 1982 Act allows the local licensing authority to determine localities within their area, allowing them to either treat the whole local licensing authority area as one locality or sub-divide it. In setting localities local licensing authorities may wish to distinguish between urban and rural areas, where the need for private hire car provision could potentially be very different.
15. In deciding on localities, the licensing authority may wish to take account of the full geographical extent of their area, the existing trading patterns and consumer behaviour. It should be borne in mind that deciding that there is overprovision within an area or areas, is likely to have an impact on future trading patterns.

Assessing Overprovision

16. Under section 10(3C) of the 1982 Act, when assessing overprovision, the local licensing authority must have regard to the number of private hire cars operating in the locality and the demand for private hire car services in the locality. This should be informed by the need to ensure that customers are provided with a safe and reliable service, and that the full diversity of customers can continue to be provided with a safe and reliable service. This may take account of the provision of accessible vehicles, availability across the week, and at key times.
17. Other considerations could be waiting times for pre-booked private hire cars and whether anyone is likely to be disadvantaged through restrictions on or lack of provision of private hire cars at peak demand times.

Developing an overprovision policy

18. The Scottish Government suggests that local licensing authorities who decide that they wish to use the overprovision power should develop and consult on a formal overprovision policy. This may take account of:
 - evidence of churn in applications, with private hire car vehicle licences not being renewed, which could suggest that there is insufficient trade available
 - evidence from meetings with relevant trade bodies, both taxis and private hire cars, as well as other businesses with an interest
 - evidence from consultation or engagement
 - overall trends in private hire car numbers
 - evidence of poor compliance by private hire cars, seeking to use taxis ranks or be hailed, which may suggest that there is insufficient trade available
 - evidence of private hire car driver hours, drivers working excessive hours in order to make a living or evidence of excess demand
 - overall ratio between the numbers of taxis and private hire car vehicles, many consumers are reliant on taxis to provide accessible vehicles etc. and an overprovision of private hire cars could endanger this
 - evidence of an adverse impact on viability of taxis which provide a vital service to many consumers
 - overall ratio between vehicle numbers and overall population within the area
 - any other additional factors that they consider useful.
19. As a matter of good practice, any evidence gathered in a survey, together with an explanation of what conclusions have been drawn from it (and why) should be published. If private hire car quantity restrictions are to be established, their benefits to consumers and the reason for the particular level at which the number is set should be explained.

20. However, it is not good practice for surveys to be paid for by the trade, except through general revenues from licence fees, as this could cast doubt on the impartiality and objectivity of the process.
21. During the development of this guidance, it became apparent that that there is no simple numerical formula for pinpointing the threshold between provision and overprovision. The Scottish Government therefore commissioned Vector Transport Consultancy to provide proposals and specific information that could inform any assessment and how such information might be obtained. Their report, *Private Hire Overprovision Assessment – Potential assessment tools*³, outlines potential tests for overprovision and details sources of information which may be helpful to local licensing authorities in the development of a private hire car overprovision policy.

Refusal on grounds of overprovision

22. Once a local licensing authority has completed its overprovision assessment, it will be in a position to refuse new private hire car vehicle licence applications in line with that policy. However, we would suggest that the policy be capable of exception and that it offers the scope to grant a private hire car vehicle licence in excess of the indicated number where for example, it provides disabled access.

Review of policy

23. We suggest that local licensing authorities undertake a periodical review of their policy with regard to quantity restrictions on private hire car vehicle licences taking into account the wider policy direction. Local licensing authorities will wish to make sure that, in doing so, they regularly review the frequency and component parts of the surveys used to measure overprovision and carry out such surveys with sufficient frequency to ensure they are able to respond to any challenge to the satisfaction of a court. It will be for the individual local licensing authority to determine the timeframe for undertaking the reviews.

Appeals

24. A decision not to grant a licence would be capable of appeal. An appeal can be to the Sheriff in the first instance and could be on the grounds that the authority erred in law, based their decision on an incorrect fact, acted contrary to natural justice or exercised their discretion in an unreasonable manner.
25. In the event of a challenge to a decision to refuse a licence, the local licensing authority concerned will be required to establish to the satisfaction of the court that it had satisfied itself that there was overprovision of private hire car services in a given locality or localities.

³ <http://www.gov.scot/ISBN/9781839602405>

Considering the competition impact of overprovision policy

26. Any overprovision policy should balance the need to ensure customer safety alongside the need to ensure that it does not limit the ability of taxi and private car hire businesses to compete. Local licensing authorities may therefore wish to consider whether the refusal to grant a licence is likely to restrict free trade and competition between businesses which could result in a reduction in customer choice and increased costs. It is important that both the taxi and private hire car service being provided is working well and benefits customers in terms of value for money and quality of service. Licensing authorities may wish to be aware that the Competition and Market Authority has published guidance⁴ for local authorities in considering the competition impact of licensing of taxis and private hire cars⁵.

Conclusion

27. There is no obligation on a licensing authority to exercise the power to refuse to grant a private hire car licence on the grounds of overprovision.
28. The licensing authority should consider the facts of individual license applications and make decisions based on local priorities and circumstances.
29. The licensing authority should, where possible, ensure that there is consistency in the decisions made.
30. Any query about any overprovision policy for private hire cars should be directed to the local licensing authority.

⁴ <https://www.gov.uk/government/publications/private-hire-and-hackney-carriage-licensing-open-letter-to-local-authorities>

⁵ Please note that the CMA guidance was produced for licensing authorities in England and Wales, which operate under a similar but different regulatory regime.



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Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 19/00849/PP

Planning Hierarchy: Local Application

Applicant: Mr and Mrs John and Julie McNamee

Proposal: Alterations/extension and change of use of ecclesiastical building (Class 10) to form dwellinghouse (Class 9), installation of sewage treatment plant and formation of vehicular access (revised application to create domestic curtilage).

Site Address: Inverchaolain Church, Toward, Argyll

DECISION ROUTE

- Local Government (Scotland) Act 1973
-

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Alterations/extension and change of use of ecclesiastical building (Class 10) to form dwellinghouse (Class 9);
- Partial use of field for use as associated domestic amenity space;
- Formation of vehicular access;
- Formation of car parking area with passing place;
- Installation of sewage treatment plant;
- Connection to an existing private water supply;
- Boundary treatments.
- Landscaping and tree planting.

(ii) Other specified operations

- None.
-

(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations it is recommended that, planning permission be granted subject to the conditions, reasons and advisory notes set out below.

(C) HISTORY:

An application for planning permission (ref. 18/02072/PP) for alterations/extension and change of use of ecclesiastical building to form dwellinghouse, installation of sewage treatment plant and formation of vehicular access, was withdrawn on 26th April 2019 due to lack of meaningful amenity space and car parking.

(D) CONSULTATIONS:

Council's Roads Engineer (response dated 3rd June 2019): No objections subject to conditions regarding sightlines, passing place, parking provision and advisory note regarding surface water drainage and Road Opening Permit.

Amenity Services (East) (response dated 7th August 2020): Comments regarding operational requirements including grass cutting, maintenance, burials and internments, headstone checks and inspections, visiting requirements and parking and servicing requirements.

Council's Public Protection Officer - (response dated 8th May 2019): No objections in principle subject to conditions regarding provision of a supply of potable water, drainage provisions, and operating hours during construction, construction activities and management of asbestos.

West of Scotland Archaeology Service (response dated 30th October 2018): Note that the proposed development is located within an area of archaeological sensitivity based on the presence of recorded sites and finds from various periods in the surrounding landscape. A suspensive condition is recommended to secure the implementation of a programme of archaeological works.

South Cowal Community Council (response dated 19th May 2019): Concern over the planned routes of services to and from the property. It is known that there are a number of unmarked graves within the grounds which should not be disturbed. Concerns that water supply will result in existing properties losing pressure and supply, particularly during spells of dry weather. A unique supply should be taken that will not interfere with supplies to the present properties.

(E) PUBLICITY: Regulation 20 advert (publication date 17th May 2019, expiry date 7th June 2019). Neighbour notification expired on 23rd May 2019.

(F) REPRESENTATIONS:

Letters of objection have been received from the following 13 individuals:

1. Miss Kara Marshall, 6 Allan Terrace, Sandbank (email dated 23rd May 2019);
2. Mrs Margaret Egan, 4 Queens Road, Sandbank (email dated 24th May 2019);
3. Miss Rhiannon Harrison, 1 Rosslund Place, Greenock Road, Bishopton (email dated 24th May 2019);
4. Mr Patrick Cuddihy, 4 Hanover House, Hanover Street, Dunoon (email dated 24th May 2019);
5. Mr Alexander Miller, 93 Lochinvar Rd, Greenfaulds, Cumbernauld (email dated 24th May 2019);
6. Mr Jason Marshall, 67 Shore Road, Innellan, Dunoon (email dated 24th May 2019);
7. Mrs Aileen Robertson, 21 Coppice Mead, Biggleswade (emails dated 9th June and 15th August 2019);

8. Mr John Wilson, Home Farm, Corehouse, Lanark (email dated 10th June 2019);
9. Helen Waddell, 33 Newton Park, Innellan (letter dated 7th June 2019);
10. George Young, Dalmoak, Toward (letter dated 11th May 2019);
11. Mrs Elma Berry, 24 Dykes Court, Darvel, East Ayrshire (letter received 11th June 2019);
12. Mrs Clair Beattie, 65 Fraser Place, Kemnay, Inverurie (letter dated 9th June 2019);
13. Mr Thomas Henry, Collingwood, Innellan (letter dated 14th June 2019).

The issues raised are summarised below:

- *Inverchaolain is a peaceful place which many people visit regularly and is a place for grief, healing and a final resting place for deeply loved relatives.*
- *Shocking that anyone would wish to turn this beautiful historic building into a family home, that would be literally in the middle of a cemetery that is in use.*
- *If the application is approved it will result in resentment and hostility for generations.*
- *The church should never have been sold to be used as private house.*
- *Understand that the purchasers were not the only people interested in the property and that there was a respectful option open.*

Comment: These comments are noted but the church building was owned, marketed and sold by The Church of Scotland. Argyll and Bute Council still own and control the graveyard but had no control over the sale of the church building. The Planning Authority must now assess the proposed conversion of the church building against Argyll and Bute Local Development Plan policies, national planning guidance, views of consultees, those making representations and any other material considerations.

- *Active part of the graveyard shown as a grassed area which could be misleading.*

Comment: This is an aspect which has delayed processing of the application but has now been resolved. The applicants own only the church building with access rights only across the internal paths within the graveyard. The Council still own all land surrounding the church within the existing stone boundary walls.

- *Proposed works will mean limited access to the grounds while the work is in progress.*
- *Where will access be taken when works are in progress?*
- *Would expect to be able to access the full churchyard in the future.*

Comment: The applicants were requested to provide additional amenity space in the field to the north of the church. This additional land will provide dedicated car parking and turning for the applicants. While part of the existing car parking and servicing area at the main entrance to the church is in the ownership of the applicants, this area will remain as the parking and servicing area for the graveyard and visitors.

- *Proposed new sunroom is ridiculous and will overlook most graves and will result in an extreme lack of privacy for people paying their respects at gravesides.*

- *Grieving is hard enough and having a peaceful place to go to mourn is important. This will not be possible with a 2-bedroom family home right in the middle of the cemetery literally metres away from the graves.*
- *Highly insensitive proposals. Being overlooked from a balcony of a private property whilst paying respect to loved ones lost is offensive and insulting to many.*
- *Future visits to graves will potentially be a few feet away from someone's barbeque or disturbed by the sound of a flushing toilet.*
- *Any person who would want to proceed with the project after seeing the upset the first application caused clearly has no respect or remorse for the people who are buried here or their families, and the same applies to the Council if they grant permission.*

Comment: The proposed use, layout and design of the proposed conversion to a dwellinghouse is considered to be acceptable. There are only very minor changes which would affect the character of the church building. Opaque glazing has been added to the balustrade of the upper floor balcony on the west and north elevations. The sun room has bi-fold glazed doors and offers a modicum of amenity space where none can be provided around the church building itself. Refer also to Design Statement in section (G).

- *Proposed parking will cause noise, nuisance, smell, parking / traffic and road safety issues.*
- *These are small country roads with only one road to access the church.*

Comment: Roads offer no objections subject to conditions. The small car parking area proposed to the north of the graveyard is unlikely to generate any more impact than the existing main car parking area at the front of the church. The additional car parking area to serve the proposed dwellinghouse may indeed alleviate existing parking problems.

- *There are features of archaeological significance within the church.*
- *There is a Memorial inside the church to WW2 servicemen. The plaque is controlled by the War Graves Commission and referenced WMR-56884. It would be impossible for relatives of this whose names appear on this plaque to be able to view it at any given time, if the church becomes a home.*

Comment: The agent has confirmed that the WWII memorial plaque was removed by a stonemason and has now been relocated to Toward Church.

- *The building works risk unearthing unmarked graves, damaging the surrounding area and stones.*
- *Proposed path to the top gate will result in a lot of digging where all the babies are buried and many graves are close to this path.*
- *As this building is situated in the middle of the churchyard, any access road, pipes, utilities etc. will have to go through what is sacred ground.*

Comment: Other than the north-west path from the church to the gate at the C10, the applicants have no rights to place services under any other part of the graveyard. Direct

northerly access to the field from the church has been denied due to potential disturbance of graves.

- *Revised drainage and service connections may now require to be pumped which may be problematic.*

Comment: Drainage and service technical details will be addressed in a Building Warrant.

- *If it were to be approved what is to prevent the owners letting the house for holiday purposes when experience of such letting practice shows there is no control over who rents the houses and one can imagine children running around playing hide and seek among the gravestones and in the long unkempt grass.*

Comment: Any planning conditions attached to the recommended approval of the Planning Application must comply with each of the tests in Circular 4/1998. Any potential conditions must therefore be necessary, relevant to planning, relevant to the particular development, enforceable, precise and reasonable in all other respects. Refer to Appendix A, section B below for a full assessment.

NOTE: Committee Members, the applicant, agent and any other interested party should note that the consultation responses and letters of representation referred to in this report, have been summarised and that the full consultation response or letter of representations are available on the Council's website. It should also be noted that the associated drawings, application forms, consultations, other correspondence and all letters of representations are available for viewing on the Council web site at www.argyll-bute.gov.uk

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) Environmental Statement:** No
- (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
- (iii) A design or design/access statement:** Yes

The applicant's agent has submitted a Design Statement dated April 2019 which comments, "*The current building was constructed in 1912 to replace the former church (which sat on the same site) which was constructed in 1812 and differs from the former medieval church which was located approximately 200 yards to the east on the adjacent hillside. Both the former and extended graveyard remain under the ownership of the local authority with the site comprising of the church footprint and a 1m boundary from the extremities of the footprint. A private water supply is required and a sewage treatment plant and soakaway is proposed to deal with foul waste.*"

The proposal is for the conversion of Inverchaolain Church to a 2-bedroom family home for the owners, Mr and Mrs McNamee. The building was still operational as a church up until its sale in 2017, and as such, there is limited natural lighting provision. As the building is to be used as a dwellinghouse, a key aim of the proposal was to introduce as much natural light in as possible whilst remaining as sensitive and respectful to the existing structure as possible.

The current boiler room is proposed for demolition, as the diminishing head room limits the practicality of this space, with the opportunity taken to form a sun room and further

increase the natural lighting provision to the rear of the layout. All plant equipment will be upgraded and relocated adjacent to the study.

A rear vestibule with a mono-pitch roof has been formed to create a second informal entrance to the building. Where reasonably practical, upgrades to the building fabric, lighting and plant equipment will significantly increase the energy efficiency of the building.

Further Information

- Servitude rights have been granted to the clients over the existing pathways within the church grounds out with direct ownership.*
- There is no legal restriction on the use of a church as a dwelling.*
- No wayleave agreements are required.*
- An investigation into the private water supply was carried out and is duly submitted in support of the application. It was determined that the supply is sufficient enough to support the church. Indeed, there is evidence that the supply may have been served by the same infrastructure historically as there are radiators and a boiler house within the church and a toby is visible outside at the North elevation.*
- The first-floor balcony is proposed with opaque glazing as a privacy measure. The sun room has the ability to be closed off from the main habitable spaces within the church and furthermore, would not be in use whilst any burial services were taking place.*
- The foul drainage system is proposed as a sewage treatment tank with soakaway in the adjacent field to the north of the church.*
- A clear line of communication should be established between the owners and the funeral directors with enough prior notice to ensure the owners can alleviate as much concern regarding privacy as possible, for example, vacating the premises until the service was concluded. It was also suggested that gated access to the private car park could be opened throughout the duration of the service only for use by the funeral directors as a gesture of courtesy.*

Conclusion

We believe the proposed design is both sensitive to the existing structure and appropriate for conversion to a dwelling for Mr and Mrs McNamee with increased energy efficiency, building fabric upgrades and increased natural lighting provision whilst retaining the character of the former church building.”

(iv) A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: Yes

An Assessment of Spring Water supply by Highwater private water supplies dated 28th November 2018 has been submitted in support of the proposed development.

The report concluded that, “*the existing spring supply appears to be adequate, both in terms of quantity and quality, for supplying an additional residential property at the Church. A new connection for the benefit of the Church could be made to the existing supply pipe in the field between the plastic tank and The Old Manse. The pressure from a gravity-fed supply to the Church would be very low due to the minimal elevation difference between the plastic tank (roadside) and the ground level at the Church. This could restrict the ability to install necessary water treatment equipment at the Church. To mitigate against this secondary pumping at the Church may be required. As part of best practice it is recommended that a minimum of 24 hours water storage is established for supplied properties. Whilst it is acknowledged that the existing plastic tank at the roadside would provide this for the three properties served by the plastic tank (The Old Manse, The Manse Cottage and the Church) it is recommended that the Church has its own storage tank within its own grounds. This would help minimise the burden of the increased flow rate on the existing supply pipework.*

Even though the available yield from the spring supply is substantial it is recommended that a flow control is installed on the Church supply branch in order to protect the other properties from potential starvation, as a consequence of excessive use at the Church. To safeguard against bacteriological contamination it is recommended that a suitably rated 'point of use' ultraviolet steriliser and sediment pre-filter is fitted at the Church".

(H) PLANNING OBLIGATIONS

Is a Section 75 obligation required: No.

(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: No

(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application

(i) List of all Development Plan Policy considerations taken into account in assessment of the application.

Argyll and Bute Local Development Plan (26th March 2015)

LDP STRAT 1 Sustainable Development;
 LDP DM1 Development within the Development Management Zones (the application site is located within the Countryside Zone);
 LDP 3 Supporting the Protection, Conservation and Enhancement of our Environment;
 LDP 8 Supporting the Strength of Our Communities;
 LDP 9 Development Setting, Layout and Design;
 LDP 10 Maximising our Resources and Reducing Our Consumption;
 LDP 11 Improving our Connectivity and Infrastructure.

Argyll and Bute Supplementary Guidance (March 2016)

SG LDP ENV 1 Development Impact on Habitats, Species and our Biodiversity;
 SG LDP ENV 6 Development Impact on Trees / Woodland;
 SG LDP ENV13 Development Impact on Areas of Panoramic Quality (APQs);
 SG LDP ENV 16(a) Development Impact on Listed Buildings;
 SG LDP ENV 20 Development Impact on Sites of Archaeological Importance;
 SG LDP ENV21 Protection and Enhancement of Buildings;
 SG LDP HOU 1 General Housing Development
 SG LDP SERV 1 Private Sewage Treatment Plants and Wastewater (i.e. drainage) Systems;
 SG LDP SERV 2 Incorporation of Natural Features/Sustainable Drainage Systems (Suds);
 SG LDP SERV 6 Private Water Supplies and Water Conservation;
 SG LDP SERV7 Flooding and Land Erosion - The Risk Framework for Development;
 SG LDP TRAN1 Access to the Outdoors;
 SG LDP TRAN 4 New and Existing, Public Roads and Private Access Regimes;
 SG LDP TRAN 6 Vehicle Parking Provision;

SG2 Sustainable Siting and Design Principles.

- (ii) **List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.**

Scottish Planning Policy (SPP) (June 2014);
Scottish Historic Environment Policy 2014;
Applicants Supporting Information;
Planning history;
Views of statutory and other consultees;
Legitimate public concern expressed on 'material' planning issues;
Argyll and Bute Proposed Local Development Plan 2 November 2019.

- (K) **Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:** No
-

- (L) **Has the application been the subject of statutory pre-application consultation.**
No
-

- (M) **Has a sustainability check list been submitted:** No
-

- (N) **Does the Council have an interest in the site:** Yes. The Council own and are responsible for the continued operation of the graveyard which entirely surrounds the church building.
-

- (O) **Requirement for a hearing:** No

In deciding whether to hold a discretionary hearing, the Council will consider:

- How up to date the Local Development Plan is, the relevance of the policies to the proposed development, and whether the representations are on development plan policy grounds which have recently been considered through the development plan process.
- The degree of local interest and controversy on material considerations, together with the relative size of community affected set against the relative number of representations and their provenance.

The proposal has attracted 13 objections with six residing outwith the Cowal area. Understandably, many of the objections are of an emotive nature where the planning aspects of the proposal have been addressed within this report or addressed via safeguarding planning conditions. With this in mind, the department considers that a discretionary local hearing would not add value to the planning process in this instance.

- (P) **Assessment and summary of determining issues and material considerations**

The application site lies within the Countryside Zone where policy LDP DM 1 will only support proposals that are infill, redevelopment, rounding off or change of use. In this

case the conversion of the church building and partial use of the adjacent field for associated domestic purposes is considered to be consistent with the settlement and spatial strategy.

The church building is not listed. The Council own the graveyard which completely surrounds the church. The proposed external alterations to convert the church into a mainstream dwellinghouse are considered to be minimal and the physical appearance and character of the church would be relatively untouched.

The proposal has attracted a total of 13 letters of objection. The concerns raised relate to the use of the church building as a dwellinghouse, impact on existing amenity and privacy as a historic and functional graveyard, access and car parking issues and servicing issues.

The Area Roads Engineer has no objections subject to conditions regarding sightlines, provision of a passing place, off-road parking provision and advisory note regarding surface water drainage and a Road Opening Permit.

West of Scotland Archaeology Service note that the proposed development is located within an area of archaeological sensitivity based on the presence of recorded sites and finds from various periods in the surrounding landscape. A suspensive condition is recommended to secure the implementation of a programme of archaeological works.

The proposal is considered to be consistent with the relevant development plan policies. There are no other material considerations, including responses from consultees and representations from third parties, nor matters raised in the assessment of the proposals, which would warrant the setting aside of adopted Local Development Plan policies in favour of the development. Refer to Appendix A below for full details and assessment.

(Q) Is the proposal consistent with the Development Plan: Yes.

(R) Reasons why Planning Permission should be granted

The proposal will ensure that Inverchaolain Church can be preserved with an active use. Whilst the original sellers could have stipulated a preferred use for the building, the decision as to its future has been left to the Council who also own and are responsible for the operation and maintenance of the graveyard which entirely surrounds the former church building. The department fully understand and appreciate the sensitivity associated with the existing use of the graveyard and future relationship with the domestic use proposed. In this regard, it is interesting to note that the church could have potentially been used for a number of different Class 10 uses without the need for planning permission.

A previous planning application however could not be supported and was withdrawn due to the lack of meaningful amenity space and car parking to support the proposed domestic use. This revised application has land to the north of the churchyard designated as associated garden and amenity space together with off-road parking spaces and a passing place.

Amenity Services have outlined their operational requirements which include burials and internments, grass cutting and maintenance, headstone checks and inspections. These operations should continue with no change to the existing arrangements.

Concern regarding parking provision and unaccompanied visits to the graveyard may be unfounded as the parking arrangement at the main entrance to the church will remain the same and visiting times to the graveyard will be open as existing.

Whilst the proposed use is considered to be a compatible conversion of Inverchaolain Church in land use terms, any restrictive conditions must be capable of meeting the six planning tests contained in Circular 4/1998. There would also appear to be no requirement for a Section 75 Obligation as other operational matters can be addressed via suspensive planning conditions or advisory notes. The success of the proposed scheme will be dependent upon regular communication between the applicants and Amenity Services as to ongoing operational requirements, infrequent burial services and frequent visitors to the graveyard.

The permission has been granted having regard to Argyll and Bute Local Development Plan policies LDP STRAT 1, LDP DM1, LDP 3, LDP 8, LDP 9, LDP 10, LDP 11 (and to policies *SG LDP ENV 1*, *SG LDP ENV 6*, *SG LDP ENV13*, *SG LDP ENV 16(a)*, *SG LDP ENV 20*, *SG LDP ENV 21*, *SG LDP HOU1*, *SG LDP SERV 1*, *SG LDP SERV 2*, *SG LDP SERV 6*, *SG LDP SERV 7*, *SG LDP TRAN1*, *SG LDP TRAN 4*, *SG LDP TRAN 6* and *SG2 Sustainable Siting and Design Principle* and to Scottish Planning Policy and Scottish Historic Environment Policy.

The proposed development subject to the conditions below would accord with those policies and there are no material considerations which would justify refusal of permission. On the basis of the above, the proposal is considered to be consistent with policies of the Argyll and Bute Council Local Development Plan

(S) Reasoned justification for a departure from the provisions of the Development Plan N/a

(T) Need for notification to Scottish Ministers: No

Author of Report: Brian Close

Date: 22nd October 2020

Reviewing Officer: Howard Young

Date: 31st October 2020

Fergus Murray
Head of Development and Economic Growth

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 19/00849/PP

1. The development shall be implemented in accordance with the details specified on the application form dated 25th April 2019 and the approved drawings listed in the table below, and supporting information, unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Plan Title.	Plan Ref. No.	Version	Date Received
1:10,000 Supplementary Location Plan	1 of 14 Drawing no. 1365-02-14E	RevE	04/08/2020
1:1250 Location Plan	2 of 14 Drawing no. 1365-02-01F	RevF	04/08/2020
1:500 Site Plan as Existing	3 of 14 Drawing no. 1365-02-02G	RevG	04/08/2020
1:100 Ground Floor Plan as Existing	4 of 14 Drawing no. 1365-02-04A	RevA	26/04/2019
1:100 First Floor Plan as Existing	5 of 14 Drawing no. 1365-02-05A	RevA	26/04/2019
1:100 Elevations as Existing	6 of 14 Drawing no. 1365-02-06A	RevA	26/04/2019
1:100 Sections as Existing	7 of 14 Drawing no. 1365-02-07		26/04/2019
nts 3D Views as Existing	8 of 14 Drawing no. 1365-02-08		26/04/2019
1:500 Site Plan as Proposed	9 of 14 Drawing no. 1365-02-03G	RevG	04/08/2020
1:100 Ground Floor Plan as Proposed	10 of 14 Drawing no. 1365-02-09A	RevA	26/04/2019
1:100 First Floor Plan as Proposed	11 of 14 Drawing no. 1365-02-10A	RevA	26/04/2019
1:100 Elevations as Proposed	12 of 14 Drawing no. 1365-02-11B	RevB	26/04/2019
1:100 Sections as Proposed	13 of 14 Drawing no. 1365-02-12		26/04/2019
nts 3D Views as Proposed	14 of 14 Drawing no. 1365-02-13		26/04/2019

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

2. Prior to the commencement of any development, the existing private water supply and infrastructure for storage and distribution will need to meet the requirements of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 if it is to be used for the proposed development. The development itself shall not be brought into use or occupied until the required supply has been installed in accordance with the recommendations made in the submitted report by Highwater Private Water Supplies – “Spring Water Supply Stronyaraig, near Inverchaolain”, dated 28th November 2018.

Reason: *In the interests of public health and in order to ensure that an adequate private water supply in terms of both quality and quantity can be provided to meet the requirements of the proposed development and to protect existing supplies.*

3. No development (including any tree felling or land engineering works or any associated operations) shall take place within the site until the developer has secured the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to the Planning Authority, during all ground disturbance. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record, recover and report items of interest and finds. A method statement for the watching brief will be submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by the Planning Authority prior to commencement of the watching brief. The name of the archaeological organisation retained by the developer shall be given to the Planning Authority and to the West of Scotland Archaeology Service in writing not less than 14 days before development commences.

Reason: *In order to allow the recovery and recording of any finds of archaeological significance.*

4. The proposed shared vehicular access shall be designed and constructed with a passing place that shall be constructed as per Standard Detail for private driveway SD8004a Access from Single lane road. The access shall be designed and constructed to prevent water running onto the public road. The car parking area shall be designed with a turning area to allow vehicles to exit the site in a forward manner. The access shall be constructed prior to any work commencing on site, unless otherwise agreed in writing by the Planning Authority.

Reason: *In the interests of road safety.*

5. The dwellinghouse hereby approved shall not be occupied until sightlines of 75 metres from a 2.4 metre setback onto the C10 serving the new domestic curtilage to the north of the church site have been provided. Thereafter, no obstruction to visibility (i.e. walls, fences and hedges) shall be permitted within these visibility splays above a height of 1.0 metre from ground level.

Reason: *To achieve and maintain required sightlines onto the C10 road.*

6. Prior to the first occupation of the dwellinghouse, a parking area for a minimum of four vehicles shall be provided within the application site (i.e. land to the north of the graveyard) and thereafter be retained for such a dedicated purpose, unless otherwise agreed in writing by the Planning Authority.

Reason: *In the interest of traffic and pedestrian safety.*

7. Any trenches dug deeper than 50 cm shall have a ramp to allow any otters (and other species) to exit.

Reason: *In order to minimise any potential impacts on otters and other species.*

8. Notwithstanding the provisions of Condition 1, no development shall commence until details of the intended means of surface water drainage to serve the development have been submitted to and approved in writing by the Planning Authority.

The duly approved scheme shall be implemented in full concurrently with the development that it is intended to serve and shall be operational prior to the occupation of the development and maintained as such thereafter.

Reason: To ensure the provision of an adequate surface water drainage system and to prevent surface water flooding.

9. No development shall commence until a scheme of tree planting, landscaping, boundary treatment, surface treatment for new garden area, lay-by and car parking and turning area has been submitted to and approved in writing by the Planning Authority. The scheme shall comprise a planting plan and schedule which shall include details of:

- i) Existing landscaping features and vegetation to be retained;
- ii) Location design and materials of proposed walls, fences and gates; Fence around new domestic amenity space should be a post and rail stock proof fence to match existing around the field, unless otherwise agreed in writing;
- iii) Proposed soft and hard landscaping works including the location, species and size of every indigenous tree/shrub to be planted; Tree species should include a mix of Quercus sp. either Sessile Oak or Pedunculate species with some intermittent planting of Birch (Betula sp.) and Rowan (Sorbus sp.);
- iv) A programme for the timing, method of implementation, completion and subsequent on-going maintenance.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme unless otherwise approved in writing by the Planning Authority.

Any trees/shrubs which within a period of five years from the completion of the approved landscaping scheme fail to become established, die, become seriously diseased, or are removed or damaged shall be replaced in the following planting season with equivalent numbers, sizes and species as those originally required to be planted unless otherwise approved in writing by the Planning Authority.

Reason: To assist with the integration of the proposal within its rural surroundings.

10. The existing stone boundary walls forming the western and northern boundaries of the graveyard shall be retained. No part of the wall shall be removed, altered or lowered without the written approval of the planning authority.

Reason: *In the interests of visual amenity and to safeguard the character of the former Inverchaolain Church and graveyard.*

11. Unless otherwise agreed in writing by the Planning Authority, all rooflights to be installed shall be the 'conservation type' rooflight window. Full details of all new rooflights shall be submitted (including scaled plans) for the prior written approval of the Planning Authority prior to their installation on the church building.

Reason: *To safeguard the character of the former Inverchaolain Church building.*

12. Unless otherwise agreed in writing by the Planning Authority, natural slates to be used for repairs or re-roofing

Reason: *To safeguard the character of the former Inverchaolain Church building.*

13. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011, classes 3A, 3D and 3E, prior to the erection of any domestic outbuildings, decking, gates or fences within the new amenity space area (i.e. land to the north of the graveyard), full details of siting, scale, design and materials shall be submitted for the written approval of the Planning Authority.

Reason: *In order to consider this aspect in detail and in terms of assessing any potential impact on the setting of Inverchaolain Church graveyard and surrounding dwellings.*

14. For the avoidance of doubt, the graveyard surrounding the former Inverchaolain Church building shall remain publicly accessible at all times during the construction phase and following completion of the development.

Reason: *In order to safeguard public access both during and after the construction phase of the development.*

15. No works shall commence until full details of a Construction Environment Management Plan (CEMP) for all ground engineering and construction works has been submitted to and approved in writing by the Planning Authority in consultation with the Council's Roads and Amenity Services. Such plan shall, include a timetable for works shall including full details of delivery times for materials and plant, construction work operating hours, parking arrangements for construction traffic and construction management protocol.

Reason: *In order to safeguard operation and maintenance of the graveyard from construction noise and activities.*

ADVISORY NOTES TO APPLICANT

1. This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]
2. In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
3. In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
4. The Area Roads Manager has advised that the proposed works will require a Road Opening Permit (S56) for all works on or adjacent to the carriageway. No surface water shall run from development site onto the road. If gates are to be fitted, they must not be able to open out onto the road. The developer is also advised that suitable off-road provisions should be provided for construction traffic. During any construction period, the storage of building materials and contractor's vehicles should take place within the curtilage of the site so as not to prejudice road safety and visibility on the C10 Glenstriven Road. The applicant is advised to contact the Area Roads Engineer (Mr. Paul Farrell, tel. 01369 708613) directly upon these matters.
5. The applicant is advised by Public Protection (in their response dated 8th May 2019) on potential noise nuisance activities including operating hours, and demolition / construction activities. These are considered to be matters which can be addressed via Public Protection legislation. The applicant/developer is advised that in terms of demolition and construction noise, the Council's Public Protection Service can use powers under the Control of Pollution Act 1974 to control the noise from demolition and construction work. It is envisaged that, in order to comply with the above controls, construction activities within the site should be restricted to the hours of 0800 to 1900 Monday to Friday, 0800 to 1300 on Saturday. No construction activities (excluding internal finishing work) should take place on Sundays or Public Holidays.

Identification and assessment of all potential sources of nuisance, including noise / vibration, dust, and any temporary lighting provided, which may cause disturbance to nearby residents during the demolition / construction process should be undertaken by the applicant. This should include consideration of intended hours of operation, movement of vehicles, use of plant and storage of equipment and materials on site.

For all potential sources of nuisance the applicant will be required to provide a management plan with details of suitable control measures to be put in place so as to ensure that construction does not cause loss of amenity to local residents and/or statutory nuisance.

Public Protection also advises that prior to starting work on site, the applicant must ensure that appropriate steps have been taken to comply with the requirements of the Control of Asbestos at Work Regulations 2012, namely the duty to check if asbestos is present in any of the existing buildings proposed to be demolished or disturbed in anyway and to remove before commencing work.

Generally, Public Protection advice that all demolition waste and waste produced during the construction process (including ground clearance materials) shall be taken away from

the site by licensed waste carrier for recycling or disposal at a licensed waste site. No burning of waste or ground clearance products shall be permitted during demolition and construction.

The applicant is advised to contact Public Protection (Pamela Fraser, Environmental Health Officer, tel. 01369 708686 or at Pamela.fraser@argyll-bute.gov.uk directly upon these matters.

6. Private surface water drainage arrangements are also subject to separate regulation by Building Standards. Further advice on SuDS can be found in SEPA's Standing Advice for Small Scale Development – www.sepa.org.uk.
7. SEPA generally advise that the proposed works to discharge foul and surface water into the watercourse will require authorisation via a CAR licence from SEPA through the Controlled Activities Regulations (Scotland) Act. The applicant/developer is advised to contact the Council's Building Standards Team prior to making detailed designs for the scheme. For CAR licence details please contact SEPA Planning Service, Angus Smith Building, 6 Parklands Avenue, Eurocentral, Holytown, North Lanarkshire ML1 4WQ, tel. 01698 839000 or by e-mail at planning.SW@sepa.org.uk.
8. The applicant is advised to contact the Council's Building Standards Team in terms of the conversion works proposed. Please contact Mr. Garreth Garrett, Area Team Leader on 01369-708605 or at garreth.garrett@argyll-bute.gov.uk for technical advice.
9. The applicants are advised that the Council's statutory maintenance and operational duties within the Inverchaolain Church graveyard include grass cutting, general maintenance, burials and internments, headstone checks and inspections, open visiting requirements and parking and servicing requirements.
The applicants are advised that the graveyard surrounding Inverchaolain Church is owned and operated by Argyll and Bute Council. All paths, trees, shrubs, stone boundary walls, grassed areas, gates and railings are the sole responsibility of the Council. Any works to these Council assets or for safety or maintenance issues, please contact roadsandinfrastructure@argyll-bute.gov.uk or at Switchboard/General Enquiries - 01546 605522.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 19/00849/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The application relates to the vacant Inverchaolain Church and part of a field lying to the north of the church, which are located within the Countryside Zone as identified in the adopted Argyll and Bute Local Development Plan (LDP). Inverchaolain Church is also located within a wider Area of Panoramic Quality (APQ) which cover the hillsides on both flanks of Loch Striven.

The site lies within the Countryside development management zone, wherein policy LDP DM 1 of the LDP provides generic support for infill, redevelopment, rounding off and / or change of use of existing buildings. Proposals not consistent with this criterion will need to demonstrate an exceptional case and be supported by an Area Capacity Evaluation (ACE). In this instance the proposal represents the conversion of the former church building to a dwellinghouse and therefore consistent with the settlement strategy with no requirement for an ACE.

Accordingly, the proposal would be consistent with policies LDP STRAT1 and LDP DM1 of the Argyll and Bute Local Development Plan.

B. Location, Nature and Design of Proposed Development

The application site comprises Inverchaolain Church (but not the graveyard surrounding it) and an additional part of a field to the north. The Old Manse (Category B listed building) and a traditional cottage are located to the west of the church at a lower level and screened from view by mature trees which are located around the perimeter of the graveyard. Stronyaraig Farm at the entrance to Inverchaolain Glen is located some 280metres to the north-east of the church. The only other dwellinghouse nearby is Inverchaolain Lodge located some 110 metres to the south-east of the church.

The C10 single track public road terminates 2km to the north of Inverchaolain Church at the entrance to Glenstriven Estate. The Core Path C212(a) Port Lamont to Ardtaraig, Loch Striven follows the C10 single track road past Inverchaolain Church.

Inverchaolain Church lies to the north of the MOD Safeguarding zone (MOD POL Depot Loch Striven) which ends at Brackley Point, some 1.4km to the south.

The application site is shown on SEPA'S indicative flood map as not being in an area prone to river or surface water flooding.

The proposal involves the change of use of Inverchaolain Church (Class 10) to a dwellinghouse (Class 9) and also includes the change of use of part of a grazing field to the north as associated domestic amenity space.

The existing vacant church building comprises a nave with rectangular footprint and pitched and gabled roof, with pitched roof projecting vestibule extension on the south elevation and dual pitched roof vestry and boiler room extension on the north elevation. The nave has a bell tower feature on the western elevation facing Loch Striven. The vestry roof has a slim traditional chimney. Gothic arch windows are located in all elevations. The main entrance to the church is from the south via entrance gates and a path towards the vestibule. There is additional access to the vestry from steps on the northern elevation. A further pedestrian gate with footpath leading to and around the church is located at the north-eastern corner of the graveyard. The graveyard, which is in Council ownership completely surrounds the church building, with older grave stones located randomly close to the church but a more formal layout on the northern part of the graveyard.

The church was previously served by a small car parking and turning area at the main entrance gate to the south.

The applicants propose to convert the church to a dwellinghouse with minimal intervention to preserve the character of the historic church building. The former nave will be converted to an open plan living room / dining room / kitchen, bedroom and study on the ground floor with a new staircase at the western end leading to a bedroom, sitting area with balcony and shower room on the first floor.

The existing boiler house will be demolished to create a sun room on the north-western corner of the church building. The flat roof sun room extension will have a balcony above the sun room enclosed by a 1.0m high balustrade wall.

A new vestibule extension is proposed adjacent to the vestry on the northern elevation. This will take the form of a lean-to timber clad extension with slated roof.

A patent glazing strip is proposed to rest on top of the existing structure along the entire length of the ridge to allow extensive natural light to penetrate the interior. Additional rooflights have been proposed in the vestibules and master en-suite with the additional benefit of assisting in ventilation requirements.

Materials

It is proposed to remove existing failing roughcast on the external walls, buttresses, bell tower and chimney breast, which is extensively discoloured and no longer in the best condition with isolated areas of staining and damage. This will allow the building to be insulated externally, taking the opportunity to apply a fresh white render coat. Additionally, it will allow retention of the fine stone finish to the interior. Given the historic nature of the building, careful consideration has been given to reintroducing breathability into the external walls as well as retaining decorative sandstone features such as the mouldings around the windows. Existing doors and windows are to be retained but any new external doors, windows and rooflights will be high quality timber dark grey alu-clad frames.

Existing cast iron rainwater goods have rusted in particular areas. It is proposed to retain them but cleaned and painted to a more natural iron/dark grey colour. There is moss growth visible on the sandstone parapet cappings and natural slates which will be cleaned and retained as existing. The rear vestibule is proposed with natural vertical Scottish or Siberian larch cladding to the walls and natural slates to the roof with new cast iron gutters to match the rest of the building.

Access and Car Parking

It is proposed to create a dedicated access for the proposed dwellinghouse within the field to the north of the graveyard. A small gravelled car parking court with turning facilities and car parking for four vehicles is proposed with vehicular access off a new lay-by. Gated access leads to the existing north-west gate within the graveyard where the north-western footpath would provide the main pedestrian link for the church to the garden area and car park.

Foul Drainage and Water Supply

It is proposed to install a foul waste sewage treatment plant with soakaway within the central part of the proposed garden ground. No details have been submitted.

It is also proposed to make a connection to an existing spring water supply which runs through the field to the north of the church and also serves The Old Manse and Manse Cottage to the west of the church.

Landscaping and Tree Planting

It is proposed to plant a yew hedge along the western and northern boundaries of the proposed garden area with indicative tree planting comprising indigenous species e.g. Scots Pine, Rowan and oak.

Assessment

Proposed Use

Many of the objectors consider that an alternative use should have been sought for the church. The starting point in an assessment of the proposed use is the existing lawful use which is a church (Class 10). The Town and Country Planning (Use Classes) (Scotland) Order 1997 (as

amended) lists a range of uses below that could have hypothetically been carried without the need for planning permission.

Class 10. Non-residential institutions

Use, not including residential use—

- (a) as a crèche, day nursery or day centre;
- (b) for the provision of education;
- (c) for the display of works of art (otherwise than for sale or hire);
- (d) as a museum;
- (e) as a public library or public reading room;
- (f) as a public hall or exhibition hall; or
- (g) for, or in connection with, public worship or religious instruction, or the social or recreational activities of a religious body.

Any of the Class 10 uses above could have potentially generated more activity or physical alterations to the church building and graveyard than the proposed use as a dwellinghouse. The isolated nature of the church (some 15 miles from Dunoon and 6 miles of that on the single track C10 road) means that other alternative commercial uses normally associated with church conversions e.g. nurseries, public houses, storage, community uses, retail, restaurants, cafes etc. may not have been viable in this location. Whilst remaining as a church building may be seen by many objectors as the most suitable use for the church, the sellers marketed the building which generated a very high volume of mainly residential enquiries.

It is therefore considered that the proposed residential use with its sympathetic conversion of the former church building offers a sensitive and low-impact use of the building to retain it as a functional building whilst retaining its historic and architectural character.

Whilst Inverchaolain Church is not listed, the following LDP policy is relevant in an assessment of the proposal.

SG LDP ENV 21 – Protection and Enhancement of Buildings

This policy provides additional detail to policy *LDP 3 Supporting the Protection, Conservation and Enhancement of our Environment* of the Adopted Argyll and Bute Local Development Plan. Opportunities for the enhancement and re-use of existing buildings will be sought, through proposals for re-building, re-use or change of use, to maintain the fabric of the building and its value to the community. New uses will be approved in principle if;

- (A) The amenities of surrounding properties and residents are safeguarded within the framework of other LDP policies and SG;
- (B) Access and car parking proposals fully meet the criteria set out in SG – Access and parking Standards;
- (C) Any proposed alteration or extension to the building respects the appearance, scale and character of the original building and surrounding area;
- (D) The proposed new use is consistent with other LDP policies and SG.

Explanation of Policy Objectives

There are many buildings in Argyll and Bute which, although not considered to be worthy of inclusion on the official List of Buildings of Architectural and Historic Interest, make a substantial contribution to the character and appearance of an area; some of these are buildings that are under used or vacant, having out-lived their original function or purpose. Many are still structurally sound and capable of refurbishment and reuse, the sustainable management and protection if these buildings secure their long-term survival, preserve their embodied energy and stimulate economic growth. There are numerous examples throughout Argyll and Bute where the retention of a valued local building has greatly enhanced the local environment. This policy aims to encourage the further use of such buildings and encourage development opportunities.

The proposed conversion of the former church building to a mainstream dwellinghouse with limited external alterations would be consistent with policies LDP3 and SG LDP ENV21 by bringing a prominent historic vacant building back into active use.

Use of Conditions and Occupancy Restrictions

Any conditions attached to the recommended approval of the Planning Application must comply with each of the tests in Scottish Government Planning Circular 4/1998 and Planning Circular 4/1998: model planning conditions addendum. The conditions must therefore be necessary, relevant to planning, relevant to the particular development, enforceable, precise and reasonable in all other respects.

In terms of occupancy, the department have been advised against the possibility of imposing a condition that restricts the use of the converted church building to that of a principal or main residence or a condition prohibiting short term holiday letting for two principal reasons:

- *both the Scottish Government guidance and case law preclude any condition which restricts the occupation of residential property, unless it can be justified by very particular circumstances. Such a condition may be viewed as contrary to Article 8 of the European Convention on Human Rights, in the current context;*
- *in order to be enforceable any condition must be capable of being monitored in practical terms. The question that must be asked is, would it be possible to detect any breach of such a condition? It is not apparent to our Legal Advisers that such a condition could be effectively monitored (at least in so far as main/principal residence is concerned).*

If however, future use for short term letting purposes was of a level to constitute a material change of use enforcement action would be possible regardless of any condition.

Council ownership of the graveyard

As part of the church acquisition, the Council have granted servitude rights across the paths in the graveyard but retains ownership of the graveyard. Accordingly, the operational concerns regarding ongoing use and maintenance of the graveyard can be addressed by the Council (Amenity Services) as landowner. It is anticipated that those landowner rights are the same as are currently exercised and were exercised prior to the sale of the former church building and on any Management Rules made in terms of the Civic Government (Scotland) Act 1982 that may be relevant.

Given alternative options for the use of the former church building (including remaining vacant), the proposal to convert it and use it as a mainstream dwellinghouse (Class 9) offers a suitable use. Physical alterations to the building both external and internal are considered to be acceptable. The use of the field to the north as a separate amenity area with dedicated access and car parking and turning provision is also considered to be acceptable subject to conditions regarding boundary treatments, landscaping and tree planting.

Suitable safeguarding planning conditions and advisory notes are recommended in respect of the Council's ownership and operational responsibility for the graveyard to enable a dialogue between residents of the converted church and Roads and Amenity Services in terms of protocol for burial services, visiting and maintenance activities.

With the above in the proposal is consistent with the provisions of policies LDP 9, SG LDP HOU1 and SG 2 of the adopted Local Development Plan 2015.

C. Natural Environment

There are no designations in respect of habitats and species. The church building has been secured therefore no opportunities for bat species or bird species to inhabit. All trees and shrubs within the graveyard are the responsibility of The Council.

Accordingly, the proposed development would be consistent with policies LDP STRAT1, LDP3 and SG LDP ENV1 of the Argyll and Bute Local Development Plan in terms of nature conservation interests.

D. Impact on Trees.

There a mixture of deciduous and conifer trees bounding the graveyard but outwith the control of the applicants. The applicants do however propose some indigenous tree planting within the extended curtilage to the north of the graveyard.

The Council's Local Biodiversity Officer comments that planting should reflect the tree species in the local area with a mix of oak, birch and rowan planted along the fence line. All trees will need to be protected during establishment with tubes/stakes at 1.2m. Planting to be carried out from end of October until mid- March, making sure the grass is kept at bay. Details to be agreed and a suspensive planning condition is attached.

Given the above, it is considered that with safeguarding conditions, the proposed development would be consistent with policies LDP STRAT1, LDP 3 and SG LDP ENV6 of the Argyll and Bute Local Development Plan.

E. Built Environment – Listed Buildings and historical setting

The former parish church of Inverchaolain lies on the east shore of Loch Striven which historically served a wide area including the Loch Striven area and Colintraive. The present church was built in 1912, replacing one built in 1812 which was destroyed by fire, and on the site of two even earlier buildings. This may explain why there are so many gravestones in the churchyard which are much older than the church itself. Inverchaolain Church is not a listed building but a fine example of an early 20th century rural church. The present church is not the site of the mediaeval church of Inverchaolain, which was sited nearby. The Clan Lamont Museum/Archive has a collection of artefacts and documents in the Old Manse to the west of the church. The Old Manse is a Category B listed building built in 1812 and a traditional Georgian 2-storey detached dwellinghouse. There is an historic path linking the Old Manse to Inverchaolain Church and graveyard which still exists.

The LDP contains specific policies protecting the historic environment. In this instance the proposal to convert the church building to a dwellinghouse will only result in minor alterations which would not unduly alter the setting or the character of the building, graveyard and surrounding traditional buildings. Converting part of the grazing field to the north to form a separate area of amenity space (as none would be available immediately adjacent to the church building) could have more of a visual impact on the setting and character of the church. However, a suitable boundary treatment to match existing field enclosures (i.e. existing post and rail stock proof fence) and native tree planting should all help to blend the new development with existing traditional buildings and their settings. In the wider landscape, the proposals would not adversely impact on the Old Manse listed building given the distance and intervening tree cover.

It is considered that the proposed conversion of Inverchaolain Church to a dwellinghouse would not have a detrimental impact on the setting of Inverchaolain Manse nearby. Accordingly, it is considered that the proposed development would be consistent with policies LDP STRAT1, LDP 3, SG LDP ENV15 of the Argyll and Bute Local Development Plan.

F. Archaeological Issues

SG LDP ENV 20 – Development Impact on Sites of Archaeological Importance. This policy provides additional detail to policy *LDP 3 Supporting the Protection, Conservation and Enhancement of our Environment* of the LDP and states a presumption in favour of retaining, protecting, preserving and enhancing the existing archaeological heritage and any future discoveries found in Argyll and Bute.

West of Scotland Archaeology Services comment that, *“The building falls within an archaeological consultation trigger, which in this instance has been defined in relation to the former church itself. It is recorded that the present church was built in 1912, to replace one that had been constructed in 1812 but subsequently destroyed by fire. According to the New*

Statistical Account of 1845, the church constructed in 1812 was the third such structure to have been erected on the site. Another church was built close to it in 1745, which was in turn pulled down when the 1812 building was erected.

Although there is therefore a reasonably long tradition of religious use of the site, the HER suggests that the current building does not occupy the site of the medieval church at Inverchaolain. The 1st edition Ordnance Survey map of the mid-19th century identifies the site of the pre-Reformation chapel as being located around 250m to the north-east, with stones and other field clearance being reported at that location at the time.

While it has been suggested that the current building does not occupy the same position as the medieval church at Inverchaolain, the site of the earlier church has never been conclusively confirmed by excavation. The HER database also notes that when the foundations for the 1812 church were being dug, several dozen human skulls were found, along with a number of long-bones. This would suggest that unmarked graves may be present in the churchyard, presumably laid out in relation to one of the earlier church buildings. It would also suggest that the foundations of the current church may have been excavated through these lairs, and that human remains may still survive within the footprint of the extant structure. It is possible that ground disturbance associated with the proposal may serve to expose material of this type, or could encounter foundations or other material relating to one of the earlier church buildings to have occupied the site.

Government policy as set out Scottish Planning Policy is to protect and preserve heritage assets wherever feasible and, as such, they are material considerations in the planning process. In order to ensure that prospective developers arrange for any archaeological issues raised by their proposals to be adequately addressed, the recommended approach is that contained in paragraph 20-22 of Planning Advice Note 2/2011 (PAN 2/2011). This states that 'where the professional judgement of the authority's archaeological advisor, based on available evidence, indicates that significant archaeological remains may exist, it is reasonable for the planning authority to request the prospective developer to arrange for an archaeological field evaluation to be carried out before the planning application is determined'.

Although PAN 2/2011 suggests that evaluation should be carried out in advance of the Council determining whether to grant planning consent, the nature of the development proposed under the current application suggests that this approach may not be suitable in this instance. While the proposal does seem likely to raise archaeological issues, these do not appear to be of such significance as would lead us to advise the Council to refuse planning consent, and as a result, WoSAS are content that the archaeological issues raised can be satisfactorily addressed through works carried out under the terms of a suitable condition attached to any consent the Council may be minded to grant. In order to implement this condition, the developer would need to appoint an archaeological contractor to monitor the initial phase of ground disturbance associated with the development. This would allow the archaeologist to identify and record any archaeological features or deposits that may be present, prior to their being removed by construction activity. Monitoring would be required on all elements of the proposal that would require ground disturbance. This would include any grubbing-out of the foundations of the boiler room that is proposed for demolition, the excavation of foundations for the replacement sun room and new entrance vestibule, and any excavations that may be required for the formation of new service connections etc. The aim of this would be to mitigate the loss of any archaeological material affected by the development by ensuring that there was an adequate record of it prior to its removal".

An appropriate condition recommended by WoSAS is attached.

G. Road Network, Parking and Associated Transport Matters

The Area Roads Engineer offers no objections and comments that the proposed development is accessed from C10 Glenstriven Road within a national speed limit. The required sightlines based on an 85 percentile speed of 40mph are 75 x 2.4 metres. All walls, hedges and fences within the visibility splays to be maintained at a height not greater than 1 metre above the road.

A passing place to be provided at the proposed vehicular access and turning area with parking for 2no vehicles. Passing place to be constructed as per SD8004a Access from Single lane road. A Road Opening Permit will be required for all works on or adjacent to the carriageway.

Appropriate conditions and advisory notes are attached.

On the basis of the above, the proposal is considered consistent with policies LDP STRAT1, LDP 11, SG LDP TRAN 4 and SG LDP TRAN6 of the Argyll and Bute Local Development Plan.

H. Public Access

The C212 (a) Core Path route from Port Lamont to Ardtaraig follows the C10 road which passes the application site on the east. The proposals will not affect the Core Path route.

The public will still have exclusive access to the Council owned graveyard. Parking will be as existing at the main southern entrance.

On the basis of the above, the proposal is considered consistent with policies LDP STRAT1, LDP 11 and SG LDP TRAN1 of the Argyll and Bute Local Development Plan.

I. Landscape

The application site lies within an Area of Panoramic Quality (APQ) covering the hillside on the east bank of Loch Striven. The proposal to convert the church to a dwellinghouse will have not have any significant impact on the immediate and wider surrounding landscape due to the limited external works proposed to the church building and existing tree cover. The inclusion of part of the field to the north of the church to an area of amenity space would have little impact on the immediate surrounding area and no impact on the wider surrounding APQ given proposals to create an enclosed car parking and turning area. Use of typical rural boundary treatments and some shrub and tree planting will help to integrate the proposed area of amenity space into the immediate landscape which contains several other dwellings which form the small dispersed Inverchaolain settlement.

On the basis of the above, the proposal is considered consistent with policies LDP STRAT1, LDP 3, LDP9, SG LDP ENV 13 and SG LDP ENV14 of the Argyll and Bute Local Development Plan.

J. Flooding

The application site is not shown on SEPA's Indicative Flood Map to be at risk from coastal, river or surface water flooding.

On the basis of the above, the proposal is considered consistent with policies LDP STRAT1, LDP9, SG LDP SERV7 and SG2 of the Argyll and Bute Local Development Plan.

K. Environmental Issues

Public Protection offer no objections in principle subject to conditions regarding operating hours during construction, construction activities and management of asbestos.

Whilst the department consider that Public Protection has its own legislative powers to deal with any potential noise issues from the converted church building should they arise, a Construction Environment Management Plan (CEMP) is requested by condition to include a timetable for construction activities including full details of delivery times for materials and plant, construction work operating hours, parking arrangements for construction traffic and construction management protocol.

It is however considered that in terms of noise issues and asbestos removal, Public Protection (and Building Standards) has its own legislative powers to deal with such issues should they arise and these are included as advisory notes only.

L. Infrastructure

Private Water Supply

An Assessment of Spring Water supply by Highwater private water supplies dated 28th November 2018 has been submitted in support of the proposed development.

The report concluded that, *“the existing spring supply appears to be adequate, both in terms of quantity and quality, for supplying an additional residential property at the Church. A new connection for the benefit of the Church could be made to the existing supply pipe in the field between the plastic tank and The Old Manse”*.

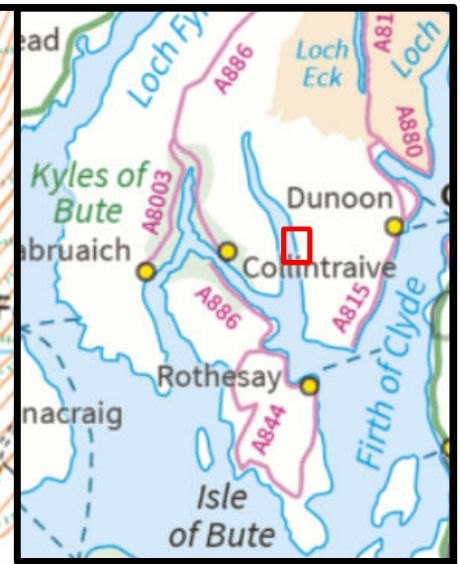
Public Protection offer no objections in principle subject to conditions regarding provision of a supply of potable water and drainage provisions. Public Protection note that it is the intention of the applicant to effect a water supply at the proposed development by connection to an existing private water supply. The existing private water supply and infrastructure for storage and distribution will need to meet the requirements of The Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017 if it is to be used for the proposed development. An assessment of Spring Water Supply Stronyaraig, Near Inverchaolain, PA23 7UN dated 28th November 2018 has been carried out by Highwater Private Water Supplies in support of this. Public Protection comment that the development itself shall not be brought into use or occupied until the required supply has been installed in accordance with the recommendations made in this report.

Foul Drainage

Public Protection comment that it is the intention of the applicant to effect a drainage system at the proposed development by means of connection to a sewage treatment plant and discharge to land via soakaway. The system of drainage provided will require to be in accordance with the relevant Building (Scotland) Acts, and this will be a matter for consideration by Building Standards.

Discharge of effluent from the septic tank into “controlled waters” (all inland watercourses, coastal and ground waters) will require a discharge consent to be put in place by the Scottish Environmental Protection Agency (SEPA).

Subject to conditions, the proposal is considered consistent with policies LDP STRAT1, LDP9, SG LDP SERV1 and SG LDP SERV6 of the Argyll and Bute Local Development Plan.



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**ARGYLL AND BUTE COUNCIL
DEVELOPMENT & ECONOMIC GROWTH**

**PPSL
18th November 2020**

**SCOTTISH GOVERNMENT CONSULTATION ON REVIEWING AND EXTENDING
PERMITTED DEVELOPMENT RIGHTS (PDR) IN SCOTLAND – PHASE 1**

1.0 EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to appraise the Planning, Protective Services and Licencing Committee of the content and potential implications of Scottish Government proposals to review and extend Permitted Development Rights (PDR) as set out in their Phase 1 consultation paper published 1st October 2020 (Appendix A), and its accompanying Strategic Environmental Assessment (Appendix C).
- 1.2 It is recommended that the Council respond to the Consultation as per the detailed response to each of the 73 consultation questions which are set out in detail within Appendix B attached to this report.
- 1.3 The proposals are in the main acceptable, or acceptable subject to additional mitigation measures that the consultation seeks to identify. However, significant concern is raised by officers in respect of proposals which seek to introduce new permitted development rights that would remove the conversion of agricultural buildings to alternative uses (including residential and 'flexible' commercial use) from the requirement for planning permission. It is recommended that the Council strongly object to those particular elements of the proposals.
- 1.4 The deadline for responding to the consultation is 12th November 2020; the Scottish Government have not agreed to provide an extension that would allow the response to be agreed by the PPSL committee in advance. Therefore, a response approved by DMT was submitted in advance of the deadline with commentary advising that this response is a draft response and may be subject to a further submission of amendment following consideration by the PPSL committee on 18th November 2020.

ARGYLL AND BUTE COUNCIL**PPSL****DEVELOPMENT & ECONOMIC GROWTH****18th November 2020**

**SCOTTISH GOVERNMENT CONSULTATION ON REVIEWING AND EXTENDING
PERMITTED DEVELOPMENT RIGHTS (PDR) IN SCOTLAND – PHASE 1**

2.0 INTRODUCTION

- 2.1 As part of their overhaul of the Scottish Planning System, the Scottish Government previously consulted in November 2019 on a proposals to implement a programme to review and extend Permitted Development Rights (PDR). The consultation primarily sought to prioritise a thematic review of PDR to inform the phased implementation of this work.
- 2.2 The consultation issued on 1st October 2020 relates to Phase 1 of the PDR review programme and sets out proposed PDR changes for four distinct types of development:
- i) Digital Telecommunications Infrastructure
 - ii) Agricultural Developments
 - iii) Peatland Restoration
 - iv) Active Travel

The consultation opened on 1st October 2020 and closes on 12th November 2020. It is understood that the Scottish Government are keen to progress and implement these proposals during the current Parliamentary term (i.e. before May 2021). The consultation paper is attached in full for reference as Appendix A. The proposed response to the 73 questions in the consultation are set out separately as Appendix B for ease of reference. The consultation is accompanied by a Strategic Environmental Assessment which is referred to in Q.71 only, this is attached as Appendix C.

- 2.3 The timing of the consultation period however precludes the ability to fully engage with elected Members on this matter through discussion at PPSL committee in advance of the deadline. Officers have requested an extension to the consultation deadline; however this has not been forthcoming and the response submitted for 12th November has been accompanied by a caveat advising the Scottish Government that the Council reserves the right to augment any comments submitted by the deadline with any views endorsed by PPSL committee at their November meeting. The consultation has also been flagged up with the Chair of the PPSL Committee with the suggestion that details of the consultation be circulated to elected members for information along with advice that they may wish to respond as an individual if they have strong views on any of the proposals. Preparation of the draft response has included consultation with Roads and

Infrastructure Services, Development Policy, and Regulatory Services, in addition to discussion at the Departmental Management Team on 26th October 2020,

3.0 RECOMMENDATIONS

- 3.1 Recommend that PPSL endorse the submitted response to the Consultation as per the detailed response to each of the 73 consultation questions contained within Appendix B attached to this report.
- 3.2 It is noted that if PPSL committed determine to amend the content of the submitted response then a mechanism is available for submission of updated commentary however the Scottish Government have advised that the content of any 'late' submissions might not be reflected in the published report.

4.0 DETAIL

- 4.1 The Scottish Government's stated objectives for the consultation are "to boost the Scottish Economy and help meet climate change ambitions. They are intended to support the expansion and improvement in Digital Communication, allow residents to erect storage for bikes and other active travel equipment in front gardens, restore Scotland's vital peatlands and allow for increased agricultural development and diversification, as well as the delivery of new homes (including affordable properties) in rural areas."
- 4.2 The Scottish Government's rationale for intervention in this instance is that "removing the requirement for some developments to submit an application for planning permission means that development can be progressed more swiftly, taking advantage of improvements to technology or react to situations". "Extending PDR or introducing new PDR is also intended to support Scotland's ongoing recovery from the COVID Pandemic".
- 4.3 The Scottish Government's proposals set out in the consultation are extensive but may reasonably be summarised as:

Part 4: Digital Telecommunications Infrastructure:

- Increases to existing PDR limits for digital infrastructure (e.g. new masts, extensions to existing masts, antenna and kit on buildings, equipment cabinets on the ground and underground equipment;
- Extension of PD rights into sensitive areas (but subject to lower size/height limits); and
- To ensure that PDR is compliant with Article 57 of the EU Directive in relation to Small Aerial Wireless Access Points (SAWAP).

Part 5: Agricultural Developments:

- Approximately double the size of new agricultural buildings (from 465sqm to 1000sqm) that may be erected under PDR (subject to prior approval) and double of the size of extensions to existing agricultural buildings that may be carried out without prior approval;

- Introduce a new PDR for the conversion of agricultural buildings to residential and other commercial uses subject to a number of conditions and limitations, including prior approval in respect of a number of matters;
- Make equivalent provision in respect of the extension of forestry buildings, and PDR for conversion to commercial uses.

Part 6: Peatland Restoration:

- Introduction of PDR in general for peatland restoration operations, this does not however include PDR for hill tracks for peatland restoration purposes.

Part 7: Active Travel:

- Introduce PDR for a storage shed in the front garden of properties – subject to height and size limit (these will be intended to provide space sufficient for 1-2 bikes and/or an adapted bike or mobility scooter);
- Introduce PDR for storage sheds in the rear garden and/or car park of shared properties (i.e. flats) – subject to a height/size limit;
- Introduce PDR for storage sheds/shelters in certain public spaces (e.g. on roads in dense residential areas, near train stations) – subject to height/size limits. Some shelters (e.g. those on a road) would still be subject to the TRO process.
- Clarify which active travel ‘developments’ already enjoy PDR (e.g. cycle lanes on a road).

4.4 Digital Telecommunications Infrastructure

4.4.1 Planning plays an important role in the provision of digital telecommunications infrastructure and one which supports various initiatives of the Scottish Government seeking to assist in the provision, enhancement and rolling-out of vital and improved digital communications for all regions of Scotland. This includes 5G telecoms networks, emergency services communication networks and enhanced rural broadband provision. The importance of this has been heightened by the ongoing Covid 19 pandemic and it is recognised that permitted development rights (PDR) can support this.

4.4.2 The Scottish Government are therefore considering an enhancement of current PDR for digital communications development. The proposed enhanced measures within the current consultation paper can be broadly categorised into two main strands:

1. Increase existing size limits for PDR for digital infrastructure, i.e. new masts, extensions to existing masts, antennae and other equipment on buildings, equipment cabinets on the ground and on buildings, other apparatus, and underground equipment, and,
2. Extend PDR for some types of digital infrastructure into sensitive areas, subject to lower size/height limits than elsewhere.

- 4.4.3 The Scottish Government accepts within the consultation that there are existing tensions between the desire to promote the effective and timely roll-out of much needed telecommunications infrastructure on the one hand and the proper assessment of such development and, where necessary, restrictions to inappropriate forms of digital communications development on the other. The consultation also identifies the requirement to strike the correct balance in extending PDR. They are not looking to extend existing PDR for new masts into sensitive 'designated areas' but are aiming to broaden existing PDR in various ways and seek comments from interested parties on each aspect of the proposed changes.
- 4.4.4 In the main, it is considered that the proposals for extending PDR on Digital Telecommunications Infrastructure are a pragmatic means of reducing regulation on the roll out and improvement of infrastructure which is of ever increasing importance to connectivity of both communities and economic activity. Whilst a number of the proposed PDR extensions have potential to impact negatively upon valued characteristics of the natural and historic environment these concerns are generally shared by the Scottish Government and appropriate provision appears to be made to the extension of existing 'prior notification/prior approval' procedures (as described in detail in Annex A of the consultation) that would include neighbor notification, and would provide the planning authority with a period of at least 56 days to consider the implications of the proposal and the ability to withhold prior approval in circumstances where the development is considered to be unacceptable. General support for these proposals is set out within the proposed responses to Q.1, Q.4, and Q.5-9. It is noted that officers and members are aware of complaints relating to lack of awareness from nearby property owners in relation to new masts which have previously been progressed through existing 'prior notification/prior approval' processes. These concerns are reflected by commentary to Q.28 which suggests that these submissions be subject to a requirement for a newspaper advert (at cost to the applicant) and/or enhanced neighbor notification covering a wider locality.
- 4.4.5 The notable exception in this respect relates to proposals to allow the potential for significant extensions to the height of existing ground based masts under 25m by 50% (max. 30m), and existing ground based masts above 30m between 30-50% (max. 50m) with (what appears to be) a lesser form of existing 'prior notification' procedure that simply requires the developer to provide the planning authority 28 days notice prior to undertaking the works and with no formal mechanism requiring any concerns raised by the planning authority to be taken on board, and/or any formal mechanism for the planning authority to intervene where it considers the development to be unacceptable. It is proposed that the Council should raise objection to the elements of the proposals which are covered by Q.2 and Q.3 but include commentary that those concerns could be satisfied by implementation of lower thresholds where development is subject to the 'simple' prior notification process, and that beyond those limits that the 'prior notification/prior approval' procedure be applied to allow proportionate consideration of issues on a case by case basis.
- 4.4.6 The proposals also include extension of PDR relating to installation of antenna

systems, small cell systems, equipment housings (both freestanding and on buildings), other apparatus installed in buildings, and underground equipment; the proposals include discussion on the potential impact of these PDR within 'designated areas' that may have an increased sensitivity to development. The proposed responses to Q.10-27 offer support for the extension of PDR in respect of these items but identifies that the sensitivities of 'designated areas' would merit consideration of the acceptability of proposals on a case by case basis and advises that it would be appropriate to extend the 'prior notification/prior approval' procedure to include some PDR categories within 'designated areas'.

Commentary on existing 'prior notification/prior approval' for telecommunications.

4.4.7 Currently there are three potential submission routes for Telecommunication Code System Operators seeking to implement development:

- Full planning permission (PP) is required for all development that doesn't benefit from PDR and would usually incur a fee of £401.00. Annually the Council might expect around 20 such submissions, although significant increases have been seen during the roll out of programmed network expansion.
- Prior Notification/Prior Approval (as described in Annex A of the consultation) (PNTEL) is required for development that benefits from PDR but subject to a requirement to obtain the prior approval of the planning authority before development proceeds. These procedures provide an initial 56 days for the planning authority to issue a direct on whether its prior approval is required. If an opinion is not issued within 56 days then the prior approval of the planning authority is deemed to have been given. Where the planning authority has concerns it can issue a direction setting out its intent to consider the matter further, and can issue a decision which either withholds prior approval, or provides approval subject to conditions intended to mitigate against any adverse impacts of the development. The PNTEL 'prior notification/approval' process is unique to telecommunication development and incurs a fee of £300.00 and a requirement for neighbor notification to be undertaken.
- Minor telecommunications developments which neither require PP or 'Prior Notification/Prior Approval' are subject to a prior notification process simply requiring developers to notify the planning authority at least 28 days in advance of undertaking works. There is no formal process for the planning authority to prevent the development being undertaken in the event that it has concerns about its potential impact.

4.4.7 The proposals to extend PDR would maintain the existing consenting procedures. Whilst there is no readily available data to review how the proposed extension and introduction of new PDR might impact upon the volume of the different type of submissions it is anticipated that this would see a reduction in the requirement for full planning permission, and an increase in the amount of

development requiring 'prior approval/prior notification'.

Submissions for Telecommunication Development by Procedure Type/Year			
	Full Planning (PP) Fee £401	Prior Notification/Prior Approval (PNTL) Fee £300	Prior Notification (TELNOT) Fee £0
2017/18	46	7	77
2018/19	19	11	13
2019/20	19	13	30

Prospectively the proposals could have some financial implications for the Council arising from a loss of income to the Development Management Service arising from the £101 difference between applications for full planning permission and 'prior notification/prior approval' submissions. It is however considered that, given the relatively low number of telecommunication submissions received annually, that any potential loss of income would be negligible. It would however be appropriate to remind the Scottish Government within the consultation response to Q.28 of its commitment to delivery of full cost recovery for the Development Management process. In this respect there is an outstanding requirement on the part of the Scottish Government to deliver on proposals to review statutory planning fees and to align these more closely with processing costs; when this is undertaken it would be essential that any fees relating to 'prior notification/prior approval' are similarly aligned to full cost recovery.

4.5 Agricultural Development

Larger Agricultural Buildings:

- 4.5.1 Currently agricultural buildings of up to 465sqm can be erected under (Class 17) PDR (subject to specified limitations); (Class 18) PDR also allows for the 'significant extension' of existing buildings by extensions of up to 10% of the cubic volume of the original building (subject to limitation on height). The consultation identifies that the 465sqm size limit has for some time been out of step with modern farming practices that have evolved as farm machinery has increased in size and complexity. It is proposed to increase the size of an agricultural building that can be built or extended under PDR from 465sqm to 1000sqm; and to amend the definition of 'significant extension' of such a building to permit a 20% increase in the cubic content of the original building. PDR proposals for extension of existing buildings would also be applied to forestry buildings (Class 22 PDR).
- 4.5.2 It is accepted that existing PDR is out of step with modern agricultural practices, particularly those associated relating larger farms. Whilst there is support for increasing PDR allowances for erection of new and extended agricultural buildings this is tempered by concern that a 'one size fits all' approach. In this

respect it is highlighted that in many parts of Argyll and Bute that farming continues to be undertaken on a much smaller scale than other parts of Scotland, particularly within localities with complex and/or contained landscapes. In such circumstances the existing agricultural buildings are key components and often the largest built elements within areas designated for their scenic value, traditional crofting patterns of development, or rural conservation area designations where larger PDR for larger buildings could have unintentional consequences upon the natural and/or historic environment. It is proposed that the Council support the principle of extended PDR floorspace for new agricultural buildings (Q.29) but seeks to temper this by responding that these benefits be restricted to existing PDR levels in areas where there are national or LDP designations relating to landscape and/or built heritage, and in relation to registered croft land (Q.31 – Q.32).

- 4.5.3 The consultation considers whether the proposals may inadvertently encourage land owners to erect new agricultural buildings for the sole purpose of benefiting from PDR to convert such buildings to residential or commercial uses. It is accordingly proposed to limit the PDR for new buildings on farms that have previously benefited from PDR conversions, and also to impose a time barrier to new buildings that would benefit from PDR for conversion. The proposed response to Q.33, Q.39, and Q.45 accepts that such provisions are essential but raises questions as to how this might work in practice, and in particular seeks clarification on matters of ownership in relation to the associated farm holding, and expresses concern that these proposals add to the complexity of establishing the 'lawful' planning status of buildings and how PDR may be applied on a case by cases basis. Concern is also expressed that the proposals may inadvertently result in the unnecessary loss of agricultural land to replace buildings that remain fit for purpose but were converted for financial gain – in this respect clarification is also sought on whether a redundancy test should also be applied to PRD for conversion.

New PDR Allowing Conversion of Agricultural Buildings to Residential Use:

- 4.5.4 The proposals identify that at present there is no PDR within the TCP Use Classes Order which would allow for the change of use of an agricultural building to an alternative use without a requirement for planning permission. Any such application would require to be determined in accordance with the development plan and any material considerations. It is proposed to support the provision of new homes in rural areas by making it simpler to convert existing agricultural buildings to residential use. This measure is being aligned by the Scottish Government with wider initiatives to support Scotland's rural economy and promote rural repopulation.
- 4.5.5 The aim of the PDR is to allow the *conversion* of existing buildings to dwellings. It is not intended that this right would permit their wholesale redevelopment, although the PDR would encompass works to the exterior of the building to facilitate it to function as a dwelling (e.g. installation of windows, doors, services). The new PDR would include:

- Change of use of an agricultural building (and any land within its curtilage) to one or more dwellings (houses or flats); and the reasonable building operations necessary to convert the building to a dwelling (or dwellings).

4.5.6 The consultation recognises that dwellings are very different from agricultural buildings in terms of their function and relationship to (and impact on) the surrounding area. There is also a requirement to ensure that dwellings provided under this PDR are safe and of good quality. The proposals set out a number of limited matters to be considered and approved by the planning authority but seek to do this through a “lighter touch” process than submitting a planning application. The matters to be proposed to be considered and approved by the planning authority would include:

- Design and external appearance (if building operations are proposed);
- The provision of natural light within proposed habitable rooms;
- Transport and access;
- Flood risk;
- Contamination issues; and
- Noise

It would be open to planning authorities to impose conditions relating to these matters when prior approval is given. The consultation also notes that in some cases that the impacts of the development may be such that it is not possible for the impacts of the development to be acceptably mitigated, and in such cases prior approval may be refused. The consultation recognises that the scope of such a prior notification/prior approval mechanism goes beyond that of any existing PDR mechanism (even that which applies to telecommunications); and views are sought on how this would operate. The consultation also notes that the fee associated with a prior notification/prior approval process would be expected to be less than a planning application fee for a comparable development.

4.5.7 In order to limit the impact upon local infrastructure and facilities it is proposed to impose limits on the total number of new homes that may be provided under PDR, and it is suggested that a maximum of 5 dwellings within an agricultural unit may be developed, and that the maximum size of each home created under PDR would be 150sqm. It is proposed that the PDR would not apply to listed buildings or scheduled ancient monument. The consultation also recognises the potential incentive for ‘gaming’ where agricultural buildings are erected or extended under PDR for the sole purpose of conversion to residential use and proposes measures to prevent this by restricting its application to any agricultural building brought into use before 5th November 2019, or if built subsequently, requiring it to have been in continuous agricultural use for a minimum period of 10 years.

4.5.8 Whilst the Scottish Government’s intent to encourage rural development and repopulation is commendable the proposal to introduce PDR allowing for conversion of agricultural buildings to residential units give rise to multiple concerns. It is considered that the Council’s LDP already provides an appropriate level of support for residential development in rural locations

(including conversion of existing buildings) but does so in a manner which is supported by a co-ordinated settlement strategy and policies which seek to address all relevant constraints and infrastructure requirements to ensure that sustainable development is delivered, and that a high degree of certainty for all parties is delivered through a plan led process. This is evidenced through 381 grants of planning permission for new residential development outwith settlement areas since 1st April 2017 which would amount to 589 new dwelling units if fully implemented. The proposals would significantly undermine this approach and would impose a complex 'prior notification/prior approval' process that would deliver little or no benefit in comparison to the current planning application process for such development. The imposition of such a 'prior notification/prior approval' process is expected to give rise to additional cost and staff resource issues to the Council, and may disenfranchise other interested parties from engagement in the determination process. It is recommended that a strong objection to the Scottish Government's intentions are raised in this respect. The additional complexity that would be created to the planning system as a result of the proposed new PDR is also likely to give rise to additional pressure upon the Council's already stretched enforcement resource as a result of additional breaches of control arising from misinterpretation of this approach. The proposed responses to Q.34 – 39 set out the grounds of objection in detail and, if the Scottish Government are minded to proceed, identify additional limitations that may be desirable to impose.

New PDR Allowing Conversion of Agricultural and Forestry Buildings to a 'Flexible' Commercial Use

- 4.5.9 The proposals identify that at present there is no PDR within the TCP Use Classes Order which would allow for the change of use of an agricultural building to an alternative use without a requirement for planning permission. Any such application would require to be determined in accordance with the development plan and any material considerations. It is proposed to support the rural economy by making it simpler to convert existing agricultural buildings to a 'flexible' commercial use which includes Class 1(Retail), Class 2 (Financial, Professional, and Other Services), Class 3 (Food and Drink), Class 4 (Business), Class 6 (Storage or Distribution), or Class 10 (Non-residential Institutions). As with the proposed PDR for residential conversion, the new right would include reasonable building operations necessary to convert the building to a commercial use.
- 4.5.10 The proposals aim to strike a balance between the economic benefits that this relaxation may deliver, while limiting the potential harm that unconstrained development of commercial uses might have on a local area and accordingly a number of conditions and limitations are proposed upon development which exceeds 150sqm within an agricultural unit. These would include:
- Design and external appearance (if building operations are proposed);
 - Contamination risks;
 - Noise;
 - Transport and highways; and

- Flood risk.

Below the 150sqm threshold, no prior notification/prior approval process would apply although the planning authority would still need to be notified of the change of use in such cases. It is proposed that a total cumulative floorspace that may be converted within a farm unit under PDR would be limited to 500sqm. The PDR would not apply to a building which is listed or if the site is a scheduled monument. Provisions which seek to limit incentives for landowners to erect new buildings solely for the purpose of converting them would also be applied.

- 4.5.11 The proposals to introduce to allow the conversion of agricultural buildings to commercial uses give rise to identical concerns to those raised in respect of proposals for residential conversion (see 4.5.7 above) with regard to undermining the certainty provided by assessment of planning applications as part of a plan-led system; being unnecessary (the LDP is generally supportive of retail and business and industry development up to 200sqm in rural locations, including conversion of existing buildings); not delivering any tangible benefit in respect of time or cost required to submit or process application; and, being likely to give rise to additional financial and staff resource issues for planning authorities having regard to both fees and potential for increased pressure upon enforcement resources arising from the additional complexity of the proposed new process. The proposed responses to Q.40 – Q.45 set out the grounds of objection in detail and, if the Scottish Government are minded to proceed, identify additional limitations that may be desirable to impose.

Conversion of Forestry Buildings:

- 4.5.12 The proposals seek views on whether PDR for conversion of forestry buildings should be undertaken on the same basis as agriculture or separate to a separate PDR review. The proposed responses to Q.46 and Q.47 seek to identify that whilst such buildings may be of similar appearance and construction their circumstances may be significantly different and as such should be considered through a separate review of PDR for forestry buildings.

Polytunnels:

- 4.5.13 The proposals do not seek to define any new PDR for polytunnels but identifies that the application of existing PDR and planning fees for new development is undertaken inconsistently dependent on local interpretation of legislation. It is proposed that the Scottish Government amend fee regulations to provide clarity on how these apply to polytunnels, and that they provide new guidance in relation to application of PDR rights for agricultural buildings to polytunnels, and new guidance seeking to identify relevant material considerations (including economic/agricultural benefits) when assessing planning applications for new/extended polytunnel developments. This proposal is not expected to give rise to any significant concern or resource implications to the Council and accordingly the proposed response to Q.48 sets that the Scottish Government's approach to polytunnels is to be welcomed.

4.6 Peatland Restoration

- 4.6.1 The primary benefit of peatland restoration is in relation to climate change and storing carbon although this activity has many other benefits including biodiversity, improvement of water quality, and reduction of flood risk. The National Peatland Plan (2015) identifies that peatland covers approximately 20% of Scotland's land mass but estimates that as much as 80% of this area has been damaged. The Scottish Government's Climate Change Plan sets targets to restore 50,000 hectares of degraded peatland by 2020, increasing to 250,000 hectares by 2030.
- 4.6.2 In February 2020, the Scottish Government announced multi-annual investment in peatland restoration of more than £250m over the next 10 years. Currently Scottish Government funding for this activity is administered largely by Peatland Action, but also Forestry and Land Scotland, the national park authorities, and Scottish Water. There is also an International Union for Conservation of Nature (IUCN) mechanism – the Peatland Code – for validating schemes seeking private funding.
- 4.6.3 The consultation identifies that as far as planning is concerned, peatland restoration activity does not appear to have been regarded, on the whole, as a matter requiring planning permission despite the definition of 'development' including various engineering and 'other operations'. Currently there are in the region of 70 restoration projects started each year, with a small number of these requiring planning permission. In future the scale and number of projects is expected to increase to meet the annual target of 20,000 hectares. It is expected that this increase will likely affect the extent to which projects may be regarded as requiring planning permission as the scale or use of machinery or more intrusive works increases, especially in large areas of open, uncultivated, or undeveloped land. The intention of the PDR review on peatland restoration is to provide clarity on the planning position for peatland restoration projects.
- 4.6.4 The consultation identifies that the majority of future restoration schemes shall either be delivered by Peatland Action, or will require certification under the IUCN Peatland Code and as such will already be subject to assessment to ensure compliance with legislative requirements and good practice. It is considered unlikely that projects would proceed without a significant degree of scrutiny and as such it is contended that wide ranging PDR can be granted for such projects.
- 4.6.5 The consultation outlines that it would be difficult to comprehensively or accurately define 'peatland' in the absence of mapped designations, or indeed to cover the full range of activities that might be undertaken in 'peatland restoration' and seeks views on whether this can be loosely defined as a general understanding of such matters for the purpose of applying PDR. Officers do not have any specific concerns about this approach and the proposed responses to Q.49 – Q.50 supports the proposals. The response to Q.51 sets out that the introduction of a light touch 28 day consultation procedure would ensure that planning authorities are aware of the project and would allow opportunity for any concerns re. potential impact upon constraints or existing permissions to be highlighted and taken into account by Peatland Action/addressing requirements of Peatland Code.

4.6.6 The consultation highlights that peatland restoration activity has potential to impact upon cultural heritage or archaeological assets, natural heritage sites, and built heritage designations. It is identified that archaeological matters are considered by Peatland Action in their assessment of proposals; and natural heritage designations, namely Sites of Special Scientific Interest and European Sites have their own safeguards in addition to the provisions of the Conservation (Natural Habitats &c.) Regulations 1994. Peatland Action also work directly with Historic Environment Scotland to ensure that undesignated features and the effects of restoration are fully considered and understood. Under the Peatland Code applicants are required to prepare statements that cover restoration and management activities including statements of environmental and social impact that will, where appropriate, include consideration of historical, cultural and archaeological heritage. Given the extent of scrutiny already applied to these projects it is not proposed to have restrictions or requirements upon PDR relating to designated areas. Officers agree that there appears little value in utilising the planning system to undertake assessment of matters that are already subject to scrutiny both by other legislation and by Peatland Action in their assessment of projects for funding, or require to be addressed by private projects under the Peatland Code; the proposed response to Q.52 supports the proposals.

4.6.7 Where peatland restoration sites are remote from existing roads then peatland restoration projects may require a new access track to be constructed. The installation of new access tracks do have potential to have wider ranging impacts including landscape. The proposed response to Q.53 raises concern in respect of this aspect of the proposals if the formation of new tracks is not properly controlled through the level of oversight provided by Peatland Action/Peatland Code. The response to Q.54 sets out that any PDR should expire along with the requirement for the new track, and Q.55 agrees that if the Peatland Code does not provide sufficient oversight for tracks relating to privately funded schemes that these be dealt with differently to schemes authorised by Peatland Action.

4.7 Active Travel

4.7.1 The Active Travel element of the PDR proposals have been moved from Phase 2 to Phase 1 in the Scottish Government's work programme. This has been brought forward in light of the experience during the COVID 19 pandemic where there has been a marked increase in walking and cycling. Active travel means cycling, walking and wheeling and includes the use of bikes, adaptive bikes, wheelchairs and mobility scooters for everyday journeys. The proposed changes to the PDR are aimed at encouraging the use of bikes as a means of travel as part of Scotland's strategy to achieve its net zero greenhouse gases emission target and improving health in support of the Active Scotland Delivery Plan.

Proposals for extensions to PDR for storage sheds/structures for bicycles:

4.7.2 The proposals seek to give all householders the right to erect bicycle/scooter stores to the front of their properties. It is also proposed to extend the same rights to owners of flats with a private garden space, and to allow flattened

properties with private garden space to erect communal storage sheds within the curtilage of the flat block. This would also apply to flats and houses within Conservation Area. It is also proposed to increase the floorspace restriction of four square metres for sheds in the rear gardens of houses in conservation areas to eight square metres, to allow for the storage of adaptive bikes and bike trailers as well as bikes and mobility scooters. Where flats do not have external private gardens, it is proposed to introduce PDR for communal bike storage sheds (hangars) in public places. The front garden single household bike storage containers would measure 1.2 metres in height, 2 metres in width and 1 metre in depth. It is proposed that finishing materials for the stores in conservation areas should be restricted to timber and that sheds would not be permitted if they would compromise traffic and pedestrian safety by blocking a sightline.

- 4.7.3 It is also proposed to bring communal cycle stores within the curtilages of offices, commercial and industrial buildings (class 4, 5 and 6 uses) into PDR. These would be a size suitable to accommodate a number of bikes proportionate to the floorspace of the office. PDR for the siting of up to four cycle stores of up to 1.36 metres in height, 2.55 metres in length and 2 metres in depth within a street block of 100 metres length in public places is also proposed. These would be placed on the road carriageway replacing on street parking spaces (other than disabled) and would not reduce the width of the public footpath.
- 4.7.4 There is general support for the proposals to extend PDR for cycle storage for houses, flats, and commercial property and this is expressed in the proposed responses to Q.60, Q.64, and Q.66. There is however some concern that the extension of this PDR to locations which are subject to a conservation area designation is not appropriate. It is contended that each conservation area has its own unique character and requirements in relation to siting of new structures, their scale, and finishing materials and this concern is reflected specifically within the proposed responses to Q.61, Q.62, and Q.66 although this response is tempered to acknowledge a greater sensitivity in general to development within front garden/street-facing areas as opposed to rear garden areas within conservation areas
- 4.7.5 There is however some concern in relation to proposals that would introduce new PDR for persons/organisations other than the Council and/or Roads Authority to erect cycle storage structures on on-street locations. Whilst there is no objection in principle to the presence of on-street cycle stores there is concern that to do so without a requirement for planning permission may have implications for vehicle/pedestrian safety and/or visual amenity, and it is highlighted that dispensing with the requirement for planning permission would disenfranchise local residents/businesses who may be affected by the development.
- 4.8 Other Matters:

- 4.8.1 The consultation is accompanied by a 'Strategic Environmental Assessment draft post adoption statement' setting out how the assessment and consultation responses (from an earlier consultation on the proposals for inclusion in the programme of PDR review) have been taken into account at this stage in the process – this additional document is attached as Appendix C. Q.71 seeks the Council's views on the statement. It is the consideration officers that the content of this document is generally acceptable with the exception that consideration of the environmental, social and economic considerations in relation to the introduction of PDR for conversion of agricultural buildings do not identify the potential negative impacts that could arise to rural infrastructure and services, or potential impacts upon the quality of development delivered and amenity.

Assessment of Impacts

- 4.8.2 In addition to the Strategic Environmental Assessment the Scottish Government have undertaken a number of other assessments of the draft proposals. Q.72 seeks feedback on the content of these draft assessments which are set out as Annexes B-F in the Scottish Government's main consultation paper and include:

4.8.3 Annex B – Business and Regulatory Impact Assessment (BRIA)

This assessment considers the costs and benefits of the proposals and identifies that extending PDR is expected to help to improve certainty of outcome for developers, and can help to reduce timescales for securing any necessary permissions or approvals. Removing more proposals from the planning application process is expected to help free up resources for planning authorities; where prior approval is required, these benefits will be offset in part by the need to submit an application for prior approval. It is also identified that the fee for prior approval would be less than that for a planning application. It is identified that removal of the requirement for planning permission may encourage development to be brought forward as a result of a reduction to both complexity of process and cost to applicants.

- 4.8.4 Officers would raise concern that the consideration of costs and benefits within the BRIA does not accurately reflect that proposals set out in the Phase 1 consultation would result in much of the development that is removed from the planning application process requiring to be the subject of a prior notification/prior approval process to allow an assessment of its individual circumstances. It is contended that any complex prior approval process that may be required to consider proposals for conversion of agricultural buildings will deliver very little benefit to applicants in respect of certainty of outcome, cost of preparing a submission, or timescale of determination. There is not expected to be any significant benefit to the planning authority as the scope of the new procedure that would be required for assessment of PDR agricultural conversion has the potential to be more complex than the planning application process and may in fact actually increase the resource required by the planning authority to undertake the assessment in some cases. This, coupled with the reduction in fees associated with prior approval would increase cost pressures upon delivery of the Development Management Service and is contrary to the

Scottish Government's stated aspiration that local authorities seek to move to full cost recovery for this regulatory activity. These concerns are reflected in the proposed response to Q.72.

4.8.5 *Annex C – Equality Impact Assessment (EqIA)*

This assessment considers the impact of the draft proposals on various equalities groups defined by protected characteristics. The EqIA concludes that the Phase 1 proposals are not expected to give rise to negative impacts for any equality groups; officers are in agreement with this position.

4.8.6 *Annex D – Children's Rights and Wellbeing Impact Assessment (CRWIA)*

This assessment considers the impact of the proposed changes on children. The proposals for review and extension of PDR in relation to agricultural buildings and peatland restoration is expected to have minimal impact upon young people. The review and extension of PDR for digital communications infrastructure and active travel is expected to have indirect positive impacts for young people by creating conditions in which digital infrastructure can be improved to be more responsive to changing demands in technology, and through provision of safe and secure cycling infrastructure. Accordingly, the Scottish Government do not propose to undertake a detailed CRWIA in respect of the proposal; officers are in agreement with this position.

4.8.7 *Annex E – Fairer Scotland Duty Assessment*

This assessment considers how the Scottish Government can reduce inequalities of outcome caused by socio-economic disadvantage when making strategic decisions. The Scottish Government set out that the proposals do not give rise to a Strategic Change to policy as they are, for the most part, amending existing permitted development rights, with the exception of peatland restoration. The consultation considers that a Fairer Scotland Duty Assessment does not require to be undertaken.

4.8.8 Officers would however highlight that whilst there may well be existing permitted development rights relating to agriculture buildings these operate solely to support the undertaking of existing agricultural activity through reduction in planning regulation. The Phase 1 proposals would introduce an entirely new concept that that a wide range of alternative land uses can be accommodated within an agricultural holding without requiring the benefit of express planning permission. Whilst the Council is supportive of the Scottish Government's aspirations to enhance the rural economy and farm diversification it is highlighted that the conversion of agricultural buildings outwith the normal planning process give rise to a significant shift in policy from one where new development will be supported where it accords with the Development Plan, or other material considerations to a position where every agricultural holding in Scotland larger than 0.4ha (with limited exceptions) would gain an inherent right to convert buildings providing up to 5 dwelling units and/or up to 500sqm of commercial floorspace within each farm unit unless the planning authority are able to demonstrate that this is inappropriate on a case by case basis.

4.8.9 It is contended that this shift in emphasis not only represents a significant strategic change in national planning policy, but also that any move to a 'prior notification/prior approval' process to manage this type of development has the potential to disenfranchise communities and third parties who would otherwise have been afforded the opportunity to engage with the development of local policy through the Development Plan process, and the right to make representation on individual planning applications. The proposed response to Q.72 accordingly sets out that the proposals in relation to PDR for conversion of agricultural buildings are of sufficient significance to merit a full and detailed assessment under the Fairer Scotland Duty in their own right. In the response to Q.73 it is highlighted that planning authorities will hold data relating to approval of new development outwith settlement areas that may assist the Scottish Government in reviewing the necessity for this proposed intervention which will impact upon the ability of local authorities to make provision for the good planning for their locality within a plan led system.

4.8.10 Annex F – Island Communities Impact Assessment (ICIA)

This assessment considers the impact of proposed changes on Scotland's islands. The Scottish Government consider that the proposals will deliver positive benefits for Island Communities, particularly those relating to digital communication, agriculture, and peatland restoration. Officers are in general agreement with this position but would note their concerns raised elsewhere in respect of proposals for the conversion of agricultural buildings and the view that the benefits to the rural economy associated with this proposed PDR are overstated, and there is no evidence put forward to suggest that these are not already, or cannot adequately be delivered through the existing procedures requiring planning applications to be determined having regard to the Local Development Plan and other material considerations.

5.0 CONCLUSION

Digital Telecommunications:

5.1 The proposals to extend and review PRD for digital telecommunications are generally acceptable subject to retention/expansion of the telecommunications 'prior notification/prior approval' process where significant change might occur, or where development is located within a 'designated area' and requires closer scrutiny. This position is outlined in the proposed responses to Q.1-27. Commentary requesting that the Scottish Government be mindful of previously stated aspirations to deliver full cost recovery for Development Management and the implications of extending the scope of development subject to telecommunications 'prior notification/prior approval' procedures are highlighted in the proposed response to Q.28.

Agricultural Development

5.2 Proposals setting out the intention to increase PDR floorspace limits for new agricultural buildings, and extended agricultural/forestry buildings are also

considered to be generally acceptable with the exception of circumstances where this has potential to impact adversely upon landscape, built heritage and croft land interests where it is recommended that existing limits be retained. Proposals relating to PRD to forestry buildings and clarification of PRD for polytunnels are also supported. The proposed responses to Q.29-Q.33, and Q.46-Q.48 reflect this position.

5.3 Proposals for the introduction of new PRD that would allow the conversion of agricultural buildings to residential development and/or commercial development give rise to significant cause for concern. It is considered that these proposals:

- Are unnecessary to secure the Scottish Government's objectives of supporting agriculture and the rural economy
- Has potential to significantly undermine settlement strategy for the management of countryside locations set out within a Local Development Plan that seeks to provide for the good planning of a locality through policies geared toward local (as opposed to nationally applicable, 'one size fits all') requirements; and
- Will give rise to a significant additional level of complexity to all parties in respect of the interpretation/operation of planning legislation as it relates to PDR for agricultural buildings.

Furthermore, the introduction of a new, and complex prior approval process for conversion of agricultural buildings is considered:

- Likely to remove any tangible benefits to land owners or planning authorities in respect of the resource or costs relating to the preparation of submissions, or their assessment when compared to current planning application requirements;
- Likely to give rise to additional financial cost to the Council in undertaking its statutory function as planning authority given that fees for prior approval will be lower than equivalent planning applications fees;
- Has potential to disenfranchise local communities and third party interests from engagement and participation in decisions relating to developments of a scale that have potential to give rise to significant effects upon their locality.

The proposed responses to Q.34-Q.45 set out a position raising objection to these proposals; additionally the response to Q.72 identifies that the costs and benefits relating to these proposals are not adequately addressed in the BRIA (Annex B), and that they are of such significance that they merit a full assessment under the Fairer Scotland Duty (Annex E).

Peatland Restoration

5.4 The proposals to clarify and extend PDR for peatland restoration are considered to be generally acceptable and pragmatic; this position is outlined in the proposed responses to Q.49-Q.59.

Active Travel

- 5.5. The proposals to clarify and extend PDR to active travel are generally considered to be acceptable subject to additional limitations relating to front garden/street facing development in conservation areas, and the installation of on-street structures by parties other than the Council/roads authority which gives rise to concern in respect of both road safety, and visual amenity. This position is outlined in the responses to Q.60-Q.70.

6.0 IMPLICATIONS

- 6.1 Policy – The proposals include provisions which may undermine elements of the ‘settlement strategy’ set out in the Local Development Plan.
- 6.2 Financial – The proposal is likely to give rise to additional cost pressures to the Council through reduction in fees payable for the assessment of planning submissions relating to conversion of agricultural buildings, and additional demand upon enforcement resources if additional breaches of planning control arise as a result of the additional complexity introduced to PDR.
- 6.3 Legal - None
- 6.4 HR - None
- 6.5 Fairer Scotland Duty: It is considered that the proposals seeking to introduce PDR for conversion of agricultural buildings represent a significant shift in national planning policy that has potential to impact significantly upon communities and individuals who would otherwise have been afforded opportunity to engage in Development Plan and/or planning application processes. It is recommended that the Scottish Government undertake a full assessment of these proposals under the Fairer Scotland Duty.
- 6.5.1 Equalities - protected characteristics - None
- 6.5.2 Socio-economic Duty - None
- 6.5.3 Islands – None
- 6.6. Risk – Elements of the proposals would introduce new and complex ‘prior notification/prior approval’ processes for conversion of agricultural buildings that give rise to additional necessity for the delivery of timely decisions (to avoid deemed permission/approval being granted by default) whilst simultaneously reducing the financial resource to the Council required to deliver the expected outcomes.
- 6.7 Customer Service – Elements of the proposals would introduce new and complex ‘prior notification/prior approval’ processes for conversion of agricultural buildings that give rise to additional customer expectation on the delivery of timely decisions whilst simultaneously reducing the financial resource to the Council required to deliver the expected outcomes.

**Executive Director with responsibility for Development & Economic Growth:
Kirsty Flanagan**

Policy Lead David Kinniburgh
6th November 2020

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APPENDICES

Appendix A – [Scottish Government Consultation on Reviewing and Extending PDR in Scotland – Phase 1](#)

Appendix B – Proposed response to the consultation

Appendix C – [PDR Extension and Review: Strategic Environmental Assessment – draft post adoption statement](#)

Appendix A

The Scottish Government's Programme for Reviewing and Extending Permitted Development Rights (PDR) in Scotland

Consultation on Phase 1 Proposals

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1. Introduction

1.1 This document sets out the Scottish Government's draft proposals for changes and extensions to Permitted Development Rights (PDR) in Scotland for the priority development types selected for inclusion in Phase 1 of our programme. It follows on from the consultation on our Proposed Work Programme and Sustainability Appraisal of options that ran from November 2019 to February 2020¹. It is accompanied by a draft Strategic Environmental Assessment Post-Adoption Statement and an update to the earlier Sustainability Appraisal.

1.2 PDR, as set out in the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (the GPDO), remove the need to apply for planning permission. These typically relate to minor, uncontroversial developments or changes associated with an existing development. PDR cover situations where it would be very unlikely for a planning permission application to be refused, where standardised conditions are likely to be used, and therefore, where consideration on the principle of the development by a planning authority on an individual basis is unlikely to add value to the process. On this basis, PDR can help remove the need for unnecessary applications for planning permission and therefore reduce the burden on both applicants and planning authorities. In addition, there is a range of other statutory mechanisms relevant to PDR. Section 3.5 of the 2019 Sustainability Appraisal contains further information.

1.3 We are seeking feedback on both the proposed Phase 1 changes to PDR and the further assessment that was undertaken as an update to the Sustainability Appraisal. Views are also sought on the partial and draft impact assessments that accompany the proposals for change. Section 10 and Annex G set out how to respond. Responses are due by 12th November 2020.

1.4 These proposals are subject to a shorter consultation period than would normally be the case because the general scope of the proposals have already been subject to consultation and scrutiny as part of the Sustainability Appraisal earlier this year. In addition, the changes prioritised in Phase 1 have been selected because they are considered to make important contributions to economic and social recovery from the Coronavirus pandemic and the Scottish Government considers that it is important that they are put into effect as soon as is practicable.

1.5 Following this consultation we will take into account the feedback received, finalise the proposals for changes and extensions to PDR and prepare regulations to be laid in the Scottish Parliament bringing changes to the General Permitted Development Order into effect. To ensure that there is adequate time for Parliamentary scrutiny and for the changes to come into force before the Scottish Parliament goes into pre-election recess, regulations need to be laid in Parliament in December 2020.

¹ <https://www.gov.scot/publications/scottish-governments-proposed-work-programme-reviewing-extending-permitted-development-rights-pdr-scotland/>

2. Responses to Previous Consultation

2.1 An analysis of responses to the previous consultation on the Proposed Work Programme and Sustainability Appraisal was conducted by Craigforth, an independent social research consultancy, and published on 30 September 2020.² All published responses can be found at the Scottish Government's Consultation hub³. The responses have informed the development of the detailed proposals for change we are consulting on now, and changes to the proposed phasing of our PDR work.

2.2 In total 113 responses were received, of which 61 were from groups or organisations and 52 from individual members of the public. The total number of responses includes comments received from the three statutory SEA consultation authorities through the SEA Gateway. Responses varied in their focus – almost all commented on the proposed phasing in the workplan, some focused primarily, or exclusively, on specific development types (including responses which provided significant detail on issues relating to the extension of PDR for these development types), and others commented across a broader range of development types.

2.3 A total of 101 respondents commented on the proposed work programme. Of these, 30 expressed broad support, 44 provided comments which criticised aspects of the programme or offered further suggestions of how this could be improved (the great majority being individuals, including 16 campaign plus responses) and 27 did not express a clear view on the work programme as a whole. Most of those providing comment, including those who expressed broad support, raised issues or suggested amendments to the proposed work programme.

2.4 A total of 74 respondents commented on the accuracy and scope of information set out in the Sustainability Appraisal. Of these, 20 expressed broad support, 18 provided comments which criticised aspects of the accuracy and scope of information described or offered suggestions as to how this could be improved, and 36 did not give a clear overall view. Those expressing support included a mix of planning authorities and other public bodies, planning/other professionals, private sector, third sector and individual respondents. However, most of those providing comment raised issues or concerns regarding the baselines set out in the SA. These were primarily related to specific development types, but some common themes were raised across the environmental, social and economic baselines.

2.5 A total of 81 respondents commented on the predicted effects as described in the SA. Of these, 13 expressed broad support, 44 provided comments which criticised aspects of the predicted effects, and 24 did not express a clear overall view. Most of those providing comment raised issues or concerns, including those expressing broad support for the SA description

² <https://Analysis of Responses to a Consultation on Reviewing and Extending Permitted Development Rights>

³ <https://consult.gov.scot/local-government-and-communities/reviewing-and-extending-pdr/>

of predicted effects. The great majority of these issues or concerns related to specific development types. However, several common themes were also evident, some of which were similar to those raised in relation to the accuracy and scope of information set out in the SA.

2.6 A total of 75 respondents commented on proposals for mitigation and monitoring of predicted effects. Of these, 6 expressed broad support for the proposals, 23 provided comments which criticised aspects of mitigation and monitoring, and 46 did not express a clear overall view. Those expressing support included planning/other professionals and private sector respondents. However, a substantial proportion of those providing comment raised issues or suggested amendments to proposals and these have helped inform the proposals for change for the Phase 1 development types that are the focus of this consultation.

3. Revised Work Programme and Phasing

3.1 Following the earlier consultation the Proposed Work Programme has been revised taking into account a number of considerations, including:

- The impact of the Coronavirus pandemic on the Scottish economy and society and the enforced delay in taking forward work on amendments to PDR due to the need to divert staff resource to tackle the emergency;
- Informed by the SA findings, the potential contribution that amendments to PDR for particular development types could make to the delivery of Scottish Government priorities and strategic outcomes – and in particular the potential contribution to economic and social recovery from the pandemic; and
- Feedback from the consultation responses on the Proposed Work Programme and the Sustainability Appraisal.

3.2 As a result of these multiple and interconnected considerations a number of changes to the Proposed Work Programme have been made. These include:

- The retention of digital communications infrastructure, agricultural developments and peatland restoration in Phase 1 of the programme. This reflects the positive contribution that each can make to economic recovery (particularly in fragile and remote rural areas), the importance to society and day to day life of good digital connectivity, and the potential significant positive effects on climate change of changes to PDR for peatland restoration and digital communications. Mitigation of the potential negative impacts of changes to PDR for these development types forms an important component of the detailed proposals for change for each.
- The movement of changes to PDR for development related to active travel from Phase 2 to Phase 1. This reflects the significant increase in levels of walking and cycling witnessed during the pandemic and a desire to capitalise on this, to maximise the positive impacts for human health and climate via reduced greenhouse gas emissions.
- The movement of PDR for town centre changes of use from Phase 3 to Phase 2. This reflects the expectation that changes to our town centres are likely to be accelerated by the impact of the Coronavirus pandemic and the important role that changes to PDR here may play in enabling adjustments which will encourage vitality in town centres. In addition, we consider that any potential changes to PDR in this area should be informed by the conclusions of the Town Centre Action Plan Expert Review Group, which is due to report to Ministers later in 2020.
- The movement of consideration of changes to PDR for hill tracks (private ways) from Phase 1 to Phase 3 and for micro-renewables

from Phase 1 to a later phase. This largely reflects the range of development types within the micro-renewables category, the complexity of the issues around these development types and the recognition that more time will be needed to fully explore how changes to PDR might most effectively maximise positive impacts and mitigate any potential negative impacts arising.

- In addition, in light of recommended support for the tourism sector from the report of the Advisory Group on Economic Recovery, the Planning and Architecture Division undertook to engage with snowsports operators, to seek their views on whether the options covered in the sustainability appraisal have potential to support economic recovery as part of Phase 1. However, discussions with the sector indicated that the scale of development that could reasonably be granted PDR in the sensitive areas in which the centres are located would not be of value to the sector, and therefore there is not a clear basis for including a proposition in Phase 1.

3.3 Where responses to the previous consultation suggested additional development types for PDR these have been noted but are not currently being considered for inclusion in the work programme. This is because either the suggestions received were not considered to be suitable for the granting of PDR and/or because inclusion would require significant additional work to identify and assess the likely environmental, social and economic impacts and/or the changes are not considered a priority at this time. Some minor changes that have not previously been subject to assessment have been added to the proposals for change for the development types in Phase 1. Where this is the case these have been subject to assessment, the results of which are set out in the update to the Sustainability Appraisal published alongside this consultation.

3.4 Table 1 sets out the proposed new phasing for our PDR Work Programme. We will continue to revisit this and update it as required, and will begin work on future development types when resources and opportunities permit.

Table 1. Revised Work Programme

Phase 1 – regulations to be laid December 2020
Digital telecommunications infrastructure
Agricultural developments
Peatland restoration
Developments relating to active travel
Phase 2 – beginning January 2021
Town centre changes of use
Electric vehicle charging infrastructure
Phase 3 – beginning Spring 2021
Hill tracks (private ways)
Phases 4 and beyond – beginning Autumn 2021 & subsequently
Micro-renewables (domestic and non-domestic)
District heating and supporting infrastructure
Energy storage (domestic and non-domestic)
Householder developments
Defibrillator cabinets
Habitat pond creation
Allotments and community growing schemes

3.5 The following sections summarise our proposals for changes and extensions to PDR for the four priority development types in Phase 1 of the programme and on which we are seeking views. When proposing changes to PDR for a particular development type consideration has been given to what is granted planning permission, what limitations (if any) should be placed on that permission, and what conditions (if any) should apply to its use.

4. Digital Telecommunications Infrastructure

4.1 The Scottish Government is committed to reviewing permitted development rights (PDR) for digital communications infrastructure to assist in enhancing and rolling out vital and improved digital communications (e.g. the rollout of 5G) for all regions of Scotland. This has become even more important given our reliance on digital communications during the Covid-19 pandemic. The benefits of enhanced digital connectivity also result in less travel which contributes significantly towards climate change measures by reducing our carbon footprint.

4.2 Planning has an important role to play in strengthening digital communications capacity and coverage across Scotland and extensions to PDR can support this. Our proposals therefore mainly aim to:

- increase existing size limits for PDR for digital infrastructure, i.e. new masts, extensions to existing masts, antennae and other equipment on buildings, equipment cabinets on the ground and on buildings, other apparatus, and underground equipment; and
- extend PDR for some types of digital infrastructure into sensitive areas, subject to lower size/height limits than elsewhere.

4.3 In extending PDR, we appreciate that there are tensions between supporting connectivity with its economic and climate change benefits and the potential environmental impact, particularly on sensitive areas. We want to get the balance right. We do not propose to extend PDR for new masts into any designated areas as part of this consultation. National Planning Framework 4 will incorporate any changes to Scottish Planning Policy and we consider that any significant changes to PDR within designated areas should form part of that review process.

Background

4.4 Class 67 of the GPDO⁴ and the Amendment Order 2017⁵ sets out PDR which apply to Electronic Communications Code Operators (ECCO). A number of general conditions apply to Class 67 with regard to notification arrangements and the appearance of developments.

4.5 A prior notification/prior approval regime applies to the siting and appearance of new ground based masts. This requires the developer to apply to the planning authority for a determination as to whether prior approval is required in respect of the siting and appearance of new ground based masts. In the case of equipment located on buildings, the development must minimise the effect on the external appearance of the building as far as is practicable. **The prior notification/prior approval regime for new ground based masts works differently from standard prior notification/prior approval; Annex A contains some additional information.**

⁴ <https://www.legislation.gov.uk/uksi/1992/223/contents/made>

⁵ <https://www.legislation.gov.uk/ssi/2017/189/contents/made>

4.6 There are a number of existing limitations on PDR which apply in certain designated areas and these are set out in Class 67(2). However, there are some exceptions as, for example, development is permitted in these areas if it would be carried out in an emergency or if the development would be the same, or smaller than, the apparatus/structure being altered or replaced. The current list of 'designated areas' is as follows:

- Conservation Areas
- Settings of Category A listed buildings and scheduled monuments
- World Heritage Sites (WHS)
- Historic Gardens and Designed Landscapes
- Historic Battlefields
- Sites of Special Scientific Interest (SSSI)
- National Parks
- National Scenic Areas
- European Sites (e.g. special protection areas and special areas of conservation)

4.7 The type of digital communications infrastructure considered in the review of PDR is set out in Chapter 5 of the Sustainability Appraisal. The key issues identified and the options for the mitigation of negative effects have informed the development of the proposals in this consultation paper. Consultees are encouraged to consider the proposals in conjunction with Chapter 5 of the sustainability appraisal, Class 67 of the GPDO and the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2017.⁶

4.8 Please note that, in addition to the mitigation proposals outlined here, to support the implementation of future changes to PDR, we are currently reviewing and updating the good practice advice and guidance on the siting, design and installation/construction of digital telecommunications infrastructure contained in Planning Advice Note 62⁷. Revised guidance will be published which will help to ensure any potential negative impacts are mitigated in relation to the built and natural environment and air safety.

Proposals for Changes and Extensions to PDR for Digital Telecommunications Infrastructure

New Ground Based Masts

4.9 Current PDR allow for the construction or installation of new ground based masts up to 25 metres high outside designated areas and we propose to increase this height limit to 30 metres.

4.10 This will be subject to a continuing requirement that the developer must first apply to the planning authority for a determination as to whether its prior

⁶ <https://www.legislation.gov.uk/ssi/2017/189/contents/made>

⁷ <https://www.gov.scot/publications/pan-62-radio-telecommunications/>

approval is required with regard to the siting and appearance of the development. This allows the planning authority to consider the siting and appearance of a proposal. The planning authority has 56 days from when an application for 'prior approval' is made within which to indicate if its prior approval is required and, if it is, to issue a decision on whether approval in respect of the siting and appearance is given or refused.

Q.1 Do you agree with an increase in permitted height for new ground based masts to 30 metres outside designated areas, subject to the existing prior approval regime on siting and appearance?

If you disagree, please explain why.

NOTE: In the following sections, any reference to using prior notification/ prior approval should be taken to mean the standard version. If you consider some other form of prior notification/ prior approval should apply, please signal this in your answer.

Existing Ground Based Masts

4.11 An operator may want to improve mobile coverage or carry out maintenance requiring alterations to or replacement of the original mast. According to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended), an 'original mast' is defined as "the mast as it is first constructed or installed and includes any apparatus attached to the mast at that time (other than an antenna) and any plinth or other structure to which it was attached at that time".

4.12 Currently PDR exists for the replacement or alteration of an existing ground based mast. There are limitations on the increase of the overall height and/or width of the structure as follows:

- If the ground based mast being altered is up to 20 metres in height, then the altered or replacement mast must not exceed the height of the original mast by 7 metres to a maximum of 25 metres.
- For existing ground based masts above 20 metres, up to 50 metres in height, then the altered or replacement mast can only be up to 5 metres greater in height than the original mast.
- In cases where the height of the existing mast is greater than 50 metres, the replacement or alteration of the mast must not add more than 15% to the height of the original mast.
- The increase in width of the mast must not exceed one metre or, if greater, one third of the width of the original mast.
- These height and width measurements include apparatus on the masts except antennas.

- In case of replacement, the mast must not be situated more than 6 metres from the location of the original mast.

4.13 These PDR for changes and replacement of ground based masts apply in all areas including designated areas. We propose to amend the limits on the increase of the overall height and/or width of existing masts , as set out in the following questions.

Q.2 Do you agree that existing ground based masts should be able to be increased in height up to 30 metres (i.e. the same maximum height as for new masts proposed in Q.1 above) and that the increase should be limited to no more than 50% of the height of the original mast (whichever is the lower)?

If you disagree, please explain why.

Q.3 Do you agree that we should allow existing masts which are above 30 metres in height to be increased to up to 50 metres in height?

If you disagree, please explain why.

Q.4 Do you agree that we should allow existing masts which are greater than 50 metres in height to be increased by up to 20% of the height of the original mast?

If you disagree, please explain why.

Q.5 Do you agree that we should allow an increase in the width of existing masts by up to 2 metres or, if greater, one half of the width of the original mast (i.e. the increase is on the widest part of the mast and including any equipment)?

If you disagree, please explain why

Q.6 Do you agree that any height or width increase within a designated area should be subject to prior notification/prior approval in order that visual impacts can be assessed?

If you disagree, please explain why

Replacement masts

Q.7 Do you agree that we should increase the maximum distance that replacement masts may be from their original location from 6m to 10m, outside designated areas?

If you disagree, please explain why.

Q.8 Do you agree that in the case of replacement masts, in designated areas the current 6m distance from the original location should be retained?

If you disagree, please explain why

Mitigating potential impacts on safeguarded sites on PDR for masts

4.14 There are existing requirements on PDR for new masts, or for changes to height or location of existing masts, for the operator to notify the relevant body for a safeguarded area (e.g. the Secretary of State for Defence, airport operator, Met Office, NATS) for their comments to ensure the safe and efficient operation around an aerodrome or technical site.

Q.9 We propose to retain the current approach. Do you agree?

If you disagree, please explain why

Antenna Systems (please note that this does not apply to small cell systems - which are dealt with in paragraphs 4.18-4.22)

4.15 Antenna systems and dish antennas are classified as PDR provided that they meet a number of criteria. Different restrictions apply to antenna systems and dish antennas depending on their relative location on the building on which they are installed (below or above a height of 15 metres above ground level). These limitations do not apply to small antennas and small cell systems. Table 2 below summarises the conditions and restrictions in relation to the installation, replacement and alteration of dish antennas and other antenna systems on buildings.

4.16 Additionally, there is no PDR for dish antennas and antenna systems in designated areas unless it is carried out in an emergency or for the alteration or replacement of the existing dish antennas and antenna systems and the resulting apparatus would be no larger, the number of items no greater and the location substantially the same as what was there already

Table 2. Existing limits on PDR for dish antennas and other antenna systems on buildings

LOCATION OF DISH ANTENNA ON BUILDING	EXISTING PDR
Below a height of 15 metres above ground level	Class 67 PDR do not apply if: <ul style="list-style-type: none"> • It would exceed 0.9 metres; • the aggregate size of all dishes would exceed 4.5 metres; and • for alteration or replacement the size of the dish and/or the aggregate size of all dishes, if greater than the above limits, would be larger than the dish and/or the aggregate size of all dishes present before the change was made

Above a height of 15 metres above ground level	Class 67 rights do not apply if: <ul style="list-style-type: none"> • It would exceed 1.3 metres; • the aggregate size of all dishes would exceed 10 metres; and • for alteration or replacement the size of the dish and/or the aggregate size of all dishes, if greater than the above limits, would be larger than the dish and/or the aggregate size of all dishes present before the change was made.
LOCATION OF OTHER ANTENNA ON BUILDING	EXISTING PDR
Below a height of 15 metres above ground level	Class 67 PDR do not apply if: <ul style="list-style-type: none"> • the number of antenna systems would exceed four; and • with alteration or replacement, the number of antenna systems, if greater than four, would be greater than the number of existing antenna systems on the building
Above a height of 15 metres above ground level	Class 67 PDR do not apply if: <ul style="list-style-type: none"> • the number of antenna systems would exceed five; and • with alteration or replacement, the number of antenna systems, if greater than five, would be greater than the number of antenna systems on the building before the change was made.

Q.10 Do you agree that the PDR for antenna systems on buildings outside designated areas should be as set out in Table 3 below?

If you disagree with an increase, please explain why.

Table 3. Proposed limits on PDR for dish antennas and other antenna systems on buildings

LOCATION OF DISH ANTENNA ON BUILDING	PROPOSAL
Up to a height of 15 metres above ground level	Class 67 PDR do not apply if: <ul style="list-style-type: none"> • It would exceed 1.3 metres; • the aggregate size of all dishes would exceed 10 metres; and • for alteration or replacement, the size of the dish and/or the aggregate size of all dishes, if greater than the above limits, would be larger than the dish and/or the aggregate size of all dishes present before the change was made
Above a height of 15 metres above ground level	No change proposed and current threshold remains in place.
LOCATION OF OTHER ANTENNA ON BUILDING	PROPOSAL
Below a height of 15 metres above ground level	Class 67 PDR do not apply if: <ul style="list-style-type: none"> • the number of antenna systems would exceed five • with alteration or replacement, the number of antenna systems, if greater than five would be greater than the number of existing antenna systems on the building before the change was made.
Above a height of 15 metres above ground level	No change proposed and current threshold remains in place

4.17 As indicated in paragraph 4.18, the PDR for this sort of apparatus is currently limited. We are considering extending PDR for antenna systems on buildings to designated areas, and would welcome views on the following questions.

Q.11 Do you agree with extending PDR for antenna systems on buildings to all or some of the designated areas to which restrictions on PDR for such infrastructure currently applies?

Please indicate which designations should have extended PDR and why, or, if you disagree, please explain why.

Q.12 What controls should apply in designated areas for antenna systems on buildings and should there be any differentiation between area type (e.g. size and number limits, prior notification/ prior approval or greater restrictions in designations such as conservation areas and world heritage sites, to avoid any detrimental impact on the built environment in terms of any potential visual clutter etc.)?

Small Cell Systems

4.18 Small cell systems are generally deployed to add local capacity to the main radio coverage infrastructure.

4.19 The GPDO contains the following definitions:

- 'small cell system' means a 'small antenna' and any apparatus which is ancillary to that antenna.
- 'small antenna' means an antenna which –
 - operates on a point to fixed multi point basis or area basis in connection with an electronic communications service';
 - may be described as a femtocell, picocell, metrocell or microcell antenna; and
 - which does not exceed, in two-dimensional measurement, a surface area of 5,000 square centimetres or a volume area of 50,000 cubic centimetres.

4.20 We are proposing to extend PDR beyond small antennas to cover small cell systems (small antennas and ancillary apparatus) on dwellinghouses and on all buildings in conservation areas. This will bring these buildings into line with other buildings as regards PDR for small cell systems.

4.21 The number, sizing, scaling and siting of small antennas and small cell systems currently permitted on buildings are defined in Class 67(2)(b) (c) and (11) (12) (13). Table 4 sets out the current PDR for small antennas that needs to change to small cell systems.

Table 4. Current limits on PDR for small antennas on dwellinghouses and other buildings in conservation areas

Location of the small antenna	Existing limits on PDR
Dwellinghouse (in a Conservation Area)	<ul style="list-style-type: none"> • There would be more than 2 small antennas on the dwellinghouse and its curtilage. The replacement or alteration of small antennas is allowed provided that the number of small antennas does not exceed the number of existing small antennas

	<ul style="list-style-type: none"> • The small antenna must not be installed on a part of the dwellinghouse or its curtilage which fronts a road • The highest part of the antenna must not be higher than the highest part of the roof
Building (in a Conservation Area) other than a dwellinghouse	<ul style="list-style-type: none"> • The maximum number of small antennas permitted is two. • The replacement or alteration of small cell systems is allowed provided that the number of small antennas does not exceed the number of existing antennas

4.22 The following questions relate to extending the PDR for small antennas on dwellinghouses and in conservation areas to small cell systems (which include small antennae plus ancillary equipment). We recognise that in conservation areas it may be difficult to increase PDR from small antennas to small cell systems and would therefore welcome your views on what should be permitted.

Q.13 Do you agree that we should extend PDR to small cell systems on dwellinghouses (rather than just for small antennas)?

If you disagree, please explain why.

Q.14 What limitations and restrictions should apply to small cell systems on dwellinghouses (e.g. smaller units, fewer in number than small antennas under PDR)?

Please explain your answer.

Q15 In conservation areas, what limits or requirements should apply to small cell systems on dwellinghouses and other buildings (e.g. prior notification/ prior approval to assess the visual impacts or smaller/lower limits, different provisions for dwellinghouses compared to other buildings)?

Please explain your answer.

Article 57 of EU Directive 2018/1972

4.23 We are currently liaising with the UK Government, and the other devolved administrations, on potential amendments to PDR that may be considered necessary to be compliant with the requirements of Article 57 of

EU Directive 2018/1972⁸ and Commission Implementing Regulation (EU) 2020/1070⁹.

4.24 We consider that with the changes to PDR for small cell systems on dwellinghouses and in conservation areas (even if those in conservation areas will require additional limitations or requirements), together with general proposals for PDR for new ground based cabinets in designated areas, we can meet the EU requirements.

Q.16 Do you agree that extending PDR for small cell systems as proposed and the proposed changes to PDR for new ground based cabinets in designated areas would meet the requirements of Article 57 of EU Directive 2018/1972?

If you disagree, please explain why.

Q.17 Are there any other potential amendments, comments or observations you wish to make in relation to potential changes to PDR that you consider necessary to be compliant with the requirements of Article 57 of EU Directive 2018/1972?

Equipment housing cabinets (ground based)

4.25 Equipment housing cabinets accommodate electronic equipment associated with antenna systems. Housing cabinets help to prevent electrical shock and protect the contents from the varying weather conditions and wider environmental impacts.

4.26 PDR that apply to the installation or alteration/replacement ground based equipment housing cabinets are included in Class 67(5) and (6), respectively and permit development which meets the following criteria:

- the cabinet would not exceed 3 metres in height; or
- the cabinet would not exceed 90 cubic metres in volume; or
- for alteration or replacement; it would not exceed the height and/or volume of the equipment housing cabinet before alteration or replacement.

4.27 PDR are restricted in designated areas and are considered to apply to development only:

(i) if it is ancillary development to changes to ground based masts, telegraph poles or overhead lines under PDR; and/or

⁸ <https://www.legislation.gov.uk/eudr/2018/1972/article/57>

⁹ <https://www.legislation.gov.uk/eur/2020/1070/contents>

(ii) other than i) where the alteration or replacement of ground-based equipment housing is permitted in designated areas if the equipment housing would not be larger than what exists, is in substantially the same location, and does not increase the number of items of apparatus.

4.28 We have no plans to increase PDR for ground based equipment housing, outside designated areas. The changes we propose would be in addition to existing PDR in designated areas that may apply to ground based equipment housing – i.e. development consisting of the alteration or replacement of apparatus generally where the size and number of pieces of apparatus is the same or smaller and the location of apparatus is the same or substantially the same (unless specific restrictions in Class 67(2) apply). We propose to increase the volume of cabinets that enjoy PDR as set out in the following questions:

Q.18 Do you agree that we should extend existing PDR in designated areas to allow for new equipment housing up to 2.5 cubic metres volume?

If you disagree, please explain why.

Q.19 Should this be subject to prior notification/prior approval on the siting and appearance to mitigate visual impacts?

If you disagree, please explain why.

Q.20 If this were to be introduced do you agree that we should differentiate between types of designated areas by, for example, having smaller size limits in conservation areas than in National Parks?

If you disagree, please explain why and give your view on what limits should apply in which areas.

Equipment housing cabinets on buildings

4.29 Class 67(8) of the GPDO sets out the PDR for the construction, installation, replacement or alteration of equipment housing on a building. Equipment housing on buildings is classified as permitted development provided that the development meets the following criteria:

- the equipment housing must not exceed 3 metres in height or 30 cubic metres in volume; and
- the equipment housing must not exceed the height and/or the volume of the original equipment housing.

4.30 The alteration or replacement of equipment housing on buildings is permitted in designated areas provided the equipment housing would not be larger than existing, is in substantially the same location and does not increase the number of items of apparatus.

4.31 We have no plans to increase PDR for equipment housing on buildings outside designated areas but the sustainability appraisal highlighted potential changes to PDR and we are considering whether to extend existing PDR in designated areas.

4.32 The changes we propose would be in addition to existing PDR in designated areas that may apply to equipment housing on buildings, i.e. development consisting of the alteration or replacement of apparatus generally where the size and number of pieces of apparatus is the same or smaller and the location of apparatus is the same or substantially the same (unless specific restrictions in Class 67(2) apply). We propose to extend PDR for new equipment housing in designated areas as set out in the following questions.

Q.21 Do you agree that we should extend PDR for new equipment housing on buildings in designated areas, with a limit on size of up to 2.5 cubic metres volume?

If you disagree, please explain why.

Q.22 Should this be subject to prior notification/ prior approval requirements on the siting and appearance to mitigate visual impacts?

If you disagree, please explain why.

Other apparatus on buildings

4.33 'Other apparatus' is defined as any structure or apparatus which is ancillary or reasonably required for the construction, installation, alteration or replacement of digital communications infrastructure network. Examples of these include backup power generators, a maintenance ladder or fencing. These do not have specific PDR limits in the way equipment housing and antenna systems do.

4.34 For apparatus generally on a building, under Class 67(10) PDR applies provided the development:

- does not exceed 10 metres in height;
- would not protrude above the highest part of the building by 8 metres (if the building is more than 15 metres in height) or 6 metres (if the building is less than 15 metres in height); or
- with alteration or replacement, where the resulting apparatus is not above these limits and is not above what was there already as regards height and protruding above the highest part of the building.

4.35 Additional conditions apply in designated areas. The alteration or replacement of apparatus is not permitted unless it is the same size or

smaller, is in substantially the same location and does not increase the number of items of apparatus.

4.36 We propose extending the PDR that applies to other apparatus in designated areas. However, we recognise that this may require more controls than just the general ones on height that apply to such works outside designated areas.

Q.23 Do you agree that PDR for other apparatus should be extended in designated areas, beyond the basic 'like for like' alteration or replacement that currently applies?

If you disagree, please explain your answer.

Q.24 Should any new PDR for other apparatus in designated areas have specific limits and restrictions regarding size and visual intrusion?

Please explain your answer, and, if you agree, please indicate what sorts of limits and restrictions should apply and why. If you disagree, please explain why.

Q.25 Do you agree that PDR for new development of other apparatus on buildings in designated areas should be subject to prior notification/prior approval to mitigate visual impacts?

If you disagree, please explain why.

Underground equipment

4.37 Underground development typically refers to underground cables which support a digital telecommunications network. The two main types considered include power cables and telecommunications cables which are used for the purposes of broadband networks and mobile radio telecommunication networks. Changes in PDR that support the deployment of underground telecommunications are likely to have some long term positive effects on promoting economic growth by helping enhance digital connectivity in urban areas and supporting the rollout of 5G networks.

4.38 PDR for underground development is generally restricted in designated areas, though such development which is ancillary to certain works granted PDR in designated areas, e.g. regarding masts and telegraph poles, is also permitted development. We propose removing the general restriction on PDR for underground digital infrastructure in designated areas, but recognise that it may need to be retained in some such areas or be subject to certain safeguards.

Q.26 In which designated areas do you consider that PDR for underground development could be extended?

Please explain your answer, particularly with regard to those designated areas where PDR for underground development could not be extended.

Q.27 In those areas where PDR for underground development could be extended, what limitations, restrictions or requirements should apply (e.g. prior notification/ prior approval, a requirement for an archaeological assessment or specific limitations)?

Please explain your answer.

Access Tracks for Digital Telecommunications Infrastructure

4.39 The Sustainability Appraisal also considered possible changes to PDR for new access tracks associated with digital communications infrastructure. However, as a result of the re-prioritisation of the PDR work programme, a review of PDR for hilltracks has been temporarily postponed and will now take place in phase 3. As a result we do not consider that it would be appropriate to propose changes to access tracks for digital telecommunications at this time and will, instead, consider any changes in this regard alongside our broader consideration of PDR for tracks.

General Comments

Q.28 Do you have any further comments to make which are specifically related to the potential changes to PDR for Digital Communications Infrastructure which have not been addressed in the questions above?

5 Agricultural Developments

5.1 Our Programme for Government 2020-21 makes it clear that the rural economy must be at the forefront of Scotland's economic and environmental recovery. The proposals set out below are intended to help support agricultural development and diversification, as well as the delivery of new homes (including affordable properties) in rural areas. They would complement wider Scottish Government measures to support and protect the rural economy by:

- Increasing the scale of agricultural buildings that may be erected or extended under PDR;
- Allowing the conversion of agricultural and forestry buildings to residential and other uses under PDR; and
- Providing greater certainty as to the planning status of polytunnels

Larger agricultural buildings

Background

5.2 Class 18 of Schedule 1 to the GPDO sets out various PDR relating to agricultural buildings and operations. This includes works for the erection, extension or alteration of agricultural buildings, where these are carried out on agricultural land within an agricultural unit.

5.3 These rights are subject to a number of conditions and limitations. In summary, any building erected, extended or altered under these provisions may not:

- exceed 465sqm in area (this figure includes the area of any other building, structure, works, plant or machinery on the same farm which is being provided or has been provided within the preceding two years and which are within 90m);
- be carried out on agricultural land less than 0.4ha in area;
- exceed 12m in height (3m if located within 3km of an aerodrome);
- be within 25m of a trunk or classified road;
- be within 400m of a dwelling (other than a farmhouse) if it is to be used to house certain livestock or for the storage of slurry or sewage;
- involve the erection, extension or alteration of a dwelling; or
- involve the provision of a building designed for purposes other than agriculture.

5.4 In the case of the erection of a new building, or the "significant extension or significant alteration" of an existing one, the developer must –

prior to commencing the development – apply to the planning authority for a determination as to whether prior approval is required in respect of siting, design and external appearance. The GPDO defines significant alteration and significant extension for agricultural and forestry buildings as where the cubic content of the original building would be exceeded by more than 10%, or the height of the building as extended or altered would exceed the height of the original building. The GPDO does not currently restrict Class 18 PDR for agricultural buildings in designated areas other than historic battlefields¹⁰.

5.5 Class 22 of Schedule 1 to the GPDO sets out PDR for forestry buildings and operations. This includes works for the erection, extension or alteration of buildings, where these are carried out on land used for the purposes of forestry, including afforestation. As with agricultural buildings, these rights are subject to certain conditions and limitations – including a requirement to seek prior notification/prior approval in respect of siting, design and external appearance where development consists of the erection of a new building, or the significant extension or alteration of an existing one. Unlike agricultural buildings, there is no maximum ground area of buildings provided under this PDR.

Proposals

5.6 The current 465sqm size limit that applies to agricultural buildings has been in place for several decades, during which time farming practices have evolved and associated machinery has increased in size and complexity.

5.7 For this reason we propose to:

- increase the maximum ground area of a building that may be erected or extended under class 18 PDR from 465sqm to 1,000sqm; and
- amend the definition of “significant extension” and “significant alteration” to refer to a 20% increase in the cubic content of a building. This new definition would also apply to forestry buildings extended or altered under class 22 PDR.

5.8 Taken together, the effect of these changes would be to approximately double the size of new agricultural buildings that may be erected under PDR (subject to prior approval), and double the size of extensions to existing agricultural and forestry buildings that may be carried out without requiring prior notification/approval.

Conditions and Limitations

5.9 We do not propose to alter the other existing restrictions (e.g. maximum building heights or minimum distances to trunk roads and dwellings) or the matters requiring prior approval.

¹⁰ See <https://www.legislation.gov.uk/ssi/2014/142/made>

5.10 As noted above and explained in detail below, this consultation also proposes new PDR for the conversion of existing agricultural (and forestry) buildings to residential and other uses. To limit the incentive for landowners to construct new buildings for the sole purpose of converting them, we propose that PDR under class 18 and 22 for the erection of a new building would not apply where a residential conversion has taken place (under the new PDR proposed below) on the same farm within the preceding 10 years.

Questions

Q.29 Do you agree with our proposal to increase the maximum ground area of agricultural buildings that may be constructed under class 18 PDR from 465sqm to 1,000sqm?

If you do not agree please explain why.

Q.30 Do you agree with our proposal to retain other existing class 18 conditions and limitations?

If you do not agree please explain why.

Q.31 Do you think that the new 1,000sqm size limit should apply in designated areas (e.g. National Parks and National Scenic Areas)?

Please explain your answer.

Q.32 Do you agree with our proposal to increase the scale of extensions or alterations to agricultural (and forestry) buildings that may be carried out without requiring prior approval?

If you do not agree please explain why.

Q.33 Do you agree with our proposal to discourage developers from erecting new buildings for the sole purpose of converting them by limiting class 18 and 22 PDR where a residential conversion has taken place under PDR on the same farm within the preceding 10 years?

If you do not agree please explain why.

Conversion of agricultural buildings to residential use

Background

5.11 Planning legislation provides that material changes of the use of land or buildings constitute development and therefore require planning

permission. Although certain changes of use may be carried out under existing PDR¹¹, these do not currently apply to agricultural buildings.

5.12 At present, converting an agricultural building to residential use would require an application for planning permission. Such an application would be determined in accordance with the development plan and any material considerations.

Proposals

5.13 We want to support the provision of new homes in rural areas by making it simpler to convert existing agricultural buildings to residential use. Our proposed new PDR for the conversion of such buildings delivers on a commitment in our Programme for Government 2019-20, and would complement wider Scottish Government initiatives to support Scotland's rural economy and promote rural repopulation.

5.14 The aim of the proposed new PDR is to allow the *conversion* of existing buildings to dwellings. It is not intended that this right would permit their wholesale redevelopment. However, it is accepted that some works affecting the exterior of an existing agricultural building may be required for it to function as a dwelling (e.g. installation of windows, doors, services). For this reason, we propose that reasonable building operations such as these would be included within the new PDR. We propose that the new PDR would include:

- Change of use of an agricultural building (and any land within its curtilage) to one or more dwellings (houses or flats); and
- The reasonable building operations necessary to convert the building to a dwelling (or dwellings).

5.15 It should also be noted that a building warrant is required for the conversion of a building, regardless of the amount of work being undertaken, and all relevant building standards would have to be met.

5.16 The proposals aim to strike a balance between the provision of new homes in rural areas, while limiting potential harm that could be caused by unconstrained conversion of buildings to residential use. Accordingly, a number of conditions and limitations are proposed.

Conditions and Limitations

5.17 We recognise that dwellings are very different from agricultural buildings in terms of the way they function and their relationship to (and impact on) the surrounding area. We also want to ensure dwellings provided under this right are safe and of good quality. As such we think that the PDR should provide for consideration and approval of a limited range of matters by the planning authority. Even so, this would represent a lighter touch process

¹¹ See [Part 3 of Schedule 1 to the GPDO](#)

than submitting a full planning application. We propose that this would relate to:

- Design and external appearance (if building operations are proposed);
- The provision of natural light within proposed habitable rooms;
- Transport and access;
- Flood risk;
- Contamination risks; and
- Noise.

5.18 It would be open to planning authorities to impose conditions relating to these matters when prior approval is given. We accept that in a limited number of cases, site-specific circumstances may be such that it is not possible for the impacts of a development to be acceptably mitigated. For example, if the existing building is located in an area that is at high risk of flooding and it cannot be designed or adapted in such a way to make it safe for habitation. In such cases, prior approval may be refused.

5.19 We recognise that the proposed scope of such a prior notification/prior approval mechanism would go beyond that which currently applies to other PDR in Scotland. We are interested to hear views on whether the proposed approach would provide an effective and proportionate means of implementing the proposed new PDR.

5.20 In order to limit the impact on local infrastructure and facilities, we consider that there should be limits on the total number of new homes that may be provided under this proposed new PDR. We propose that a maximum of five dwellings within an agricultural unit may be developed under these provisions. We are also minded to limit the size of each home created under this PDR to a maximum of 150sqm.

5.21 Given that the intention of the new right is to provide for the conversion of buildings, we propose that the external dimensions of the development upon completion may not extend beyond those of the existing building. The right would not apply if the building is listed or if the site is (or contains) a scheduled monument.

5.22 As outlined above, existing PDR already provide for the erection of buildings used for agricultural purposes. We recognise that introducing a separate right which permits the conversion of such buildings to dwellings could lead to abuse and/or over-development. Specifically, landowners may be incentivised to erect buildings under existing rights (class 18) for the sole purpose of converting them to (potentially more valuable) residential use. To limit the scope of such 'gaming', we propose that any building converted to

residential use under this right must have been used for the purposes of agriculture:

- On or before 5 November 2019; or
- In the case of buildings brought into use after that date, for a continuous period of ten years prior to the conversion taking place.

5.23 The cut-off date of 5 November 2019 is proposed because this is when the Scottish Government published its programme for reviewing and extending PDRs in Scotland, making public its intention to introduce PDRs for the conversion of agricultural buildings to residential use.

Q.34 Do you agree with the proposed new PDR for conversion of agricultural buildings to residential use, including reasonable building operations necessary to convert the building?

If you do not agree please explain why.

Q.35 Do you agree that the proposed new PDR should be subject to a prior notification/prior approval process in respect of specified matters?

If you do not agree please explain why.

Q.36 Do you agree with the proposed range of matters that would be the subject of a prior notification/prior approval process?

If you do not agree please explain why.

Q.37 Do you agree with the proposed maximum number (5) and size (150sqm) of units that may be developed under this PDR?

If you do not agree please explain why.

Q.38 Do you agree with the proposed protection for listed buildings and scheduled monuments?

If you do not agree please explain why.

Q.39 Do you agree with the proposed measures to discourage developers from erecting new buildings for the sole purpose of converting them?

If you do not agree please explain why.

Conversion of agricultural buildings to flexible commercial use

Background

5.24 Currently, converting agricultural buildings to a commercial use (e.g. shop, café, restaurant, office) would require an application for planning permission. Such an application would be determined in accordance with the development plan and any material considerations.

Proposals

5.25 We want to support Scotland's rural economy by making it simpler to convert existing agricultural and forestry buildings to a range of commercial uses. The proposed new PDR is intended to help support economic diversification and sustainable communities in rural areas. Doing so would respond to a number of the recommendations in [Rural Planning Policy to 2050](#) published in January 2020.

5.26 The proposed PDR would allow the change of use of an agricultural building (and any land within its curtilage) to a 'flexible' use falling within class 1 (shops), class 2 (financial, professional and other services), class 3 (food and drink), class 4 (business), class 6 (storage or distribution or class 10 (non-residential institutions)¹² of the Town and Country Planning (Use Classes) (Scotland) Order 1997. As with proposed PDR for residential conversions, we think that the new right should also include reasonable building operations necessary to convert the building to a commercial use.

5.27 It should also be noted that a building warrant is required for the conversion of a building, regardless of the amount of work, if any, being undertaken and all relevant building standards would have to be met.

5.28 The proposals aim to strike a balance between the economic benefits that this relaxation may deliver, while limiting potential harm that the unconstrained development of commercial uses could have on a local area. Accordingly, a number of conditions and limitations are proposed.

Conditions and Limitations

5.29 We propose that where the cumulative floorspace of a building or buildings that have changed use under this PDR exceeds 150sqm within an agricultural unit, a process of prior notification/prior approval would apply in respect of:

- Design and external appearance (if building operations are proposed);
- Contamination risks;

¹² "Non-residential institutions" include museums, galleries, places of worship, halls, nurseries and educational use.

- Noise;
- Transport and highways; and
- Flood risk.

5.30 Below the 150sqm threshold, no prior notification/approval process would apply. Nevertheless, we propose that the planning authority would still need to be notified of the change of use in such cases.

5.31 We propose that the total cumulative floorspace of a building or buildings that may change to a flexible commercial use under this PDR may not exceed 500sqm within an agricultural unit.

5.32 As with the proposed PDR for residential conversion, we want to limit incentives for landowners to erect new buildings for the sole purpose of converting them. Accordingly, we propose to apply the same time limits/cut-offs to this right.

5.33 The right would not apply to a building which is listed or if the site is (or contains) a scheduled monument.

Questions

Q.40 Do you agree with the proposed new PDR for conversion of agricultural buildings to flexible commercial use, including reasonable building operations necessary to convert the building?

If you do not agree please explain why.

Q.41 Do you agree with the proposed cumulative maximum floorspace (500sqm) that may change use?

If you do not agree please explain why.

Q.42 Do you agree that the proposed new PDR should be subject to a prior notification/prior approval process in respect of specified matters where the cumulative floorspace changing use exceeds 150sqm?

If you do not agree please explain why.

Q.43 Do you agree with the proposed range of matters that would be the subject of prior notification/prior approval?

If you do not agree please explain why.

Q.44 Do you agree with the proposed protection for listed buildings and scheduled monuments?

If you do not agree please explain why.

Q.45 Do you agree with the proposed measures to discourage developers from erecting new buildings for the sole purpose of converting them?

If you do not agree please explain why.

Conversion of Forestry Buildings

5.34 The proposed new PDRs outlined above provide for the conversion of agricultural buildings to residential and various commercial uses. We consider that there is merit in making parallel provision in respect of forestry buildings. Insofar as relevant, we propose that the same conditions and limitations would apply to the conversion of a forestry building as to an agricultural building.

Q.46 Do you agree that we should take forward separate PDRs for the conversion of forestry buildings to residential and commercial uses?

If you do not agree please explain why.

Q.47 Do you agree that the same conditions and limitations proposed in respect of the PDR for the conversion of agricultural buildings should apply to any separate PDR for the conversion of forestry buildings, insofar as relevant?

If you do not agree please explain why.

Polytunnels

Background

5.35 Polytunnels are buildings or structures comprising a series of semi-circular or rectangular supports covered with polythene or other translucent material. Their purpose is to create a warmer micro-climate within the interior which is conducive to the growth of certain fruit or vegetable plants. As such, polytunnels can help to extend the growing season, which can in turn support greater product diversity and yields. By providing opportunities for localised food production, the use of polytunnels can help to reduce food miles.

5.36 There is considerable variation in the size, extent, scale, moveability and permanence of structures or buildings covered by the term 'polytunnel'. Some polytunnels are small-scale, temporary structures comprising metal hoops that are screwed into the ground and may only be covered with material for part of the year. These are relatively simple to construct, disassemble and move. However, polytunnels can also be substantial, permanent buildings covering multiple hectares of land. As well as being used for commercial purposes on agricultural land, polytunnels are also used for domestic purposes.

5.37 Reflecting this level of diversity, the planning status of polytunnels varies considerably. In some cases, the erection or provision of polytunnels may not involve ‘development’ (for the purposes of the Planning Acts) at all. In other cases, polytunnel schemes may constitute development but be covered by existing PDRs: in particular, under class 18 of Schedule 1 to the GPDO (see above). Alternatively, larger polytunnel schemes may require a ‘full’ application for planning permission. This situation can lead to uncertainty for planning authorities, farmers and communities. Furthermore, where a planning application is required (as opposed to an application for prior approval) it is not always clear what fee is applicable.

Proposals

5.38 To the extent that polytunnels constitute agricultural buildings, the proposed amendments to class 18 (see section on larger agricultural buildings above) would allow some larger schemes under PDR.

5.39 Otherwise, we are not currently minded to create a specific PDR for polytunnels. Given the considerable variation in the scale, nature and permanence of polytunnels outlined above, we consider that seeking to do so risks:

- Subjecting small-scale and/or temporary structures to additional regulation than at present; and/or
- Permitting very large-scale polytunnel developments whose impacts ought to be considered through a planning application.

5.40 Instead of taking forward a bespoke PDR, we propose

- Amending the fees regulations to clarify the appropriate fee where a polytunnel development requires an application for planning permission.
- Preparing new guidance clarifying PDR under which polytunnels may be erected or provided. For example, class 18 (agricultural buildings).
- Preparing new guidance, to be taken into account where a polytunnel proposal is the subject of a planning application, highlighting the need to give appropriate weight to the economic/agricultural benefits of polytunnels and the role they can play in extending the growing season and supporting local produce.

5.41 We will continue to keep the case for a specific PDR for polytunnels under review.

Questions

Q.48 Do you agree with our proposed approach to providing greater clarity as to the planning status of polytunnels?

If you do not agree please explain why.

6. Peatland Restoration

Introduction

6.1 The primary benefit of peatland restoration is in relation to climate change and storing carbon, though it has many other benefits including providing an internationally important habitat, improving water quality and reducing flood risk. The National Peatland Plan (2015) indicates that, in total, peatlands cover over 20% of Scotland's land area. However, estimates point to as much as 80% of Scotland's peatland landscape having been damaged. The Scottish Government's Climate Change Plan sets targets to restore 50,000 hectares of degraded peatland by 2020, increasing to 250,000 hectares by 2030.

6.2 In February 2020, the Scottish Government announced a substantial, multi-annual investment in peatland restoration of more than £250 million over the next 10 years. Currently, Scottish Government funding for peatland restoration is administered largely through Peatland Action, but also Forestry and Land Scotland, the national park authorities, and Scottish Water. There is also an International Union for Conservation of Nature (IUCN) mechanism – the Peatland Code – for validating schemes seeking private funding.

6.3 The Scottish Government's support for peatland restoration and what it can mean for the environment, and the above commitments, are confirmed in a number of strategic documents, including the Climate Change Plan, the Scottish Government's response to the report of the Advisory Group on Economic Recovery, and the Programme for Government 2021-22.

6.4 As far as planning is concerned, peatland restoration activity does not appear to have been regarded, on the whole, as a matter requiring planning permission despite the definition of 'development' including various engineering and 'other operations'. Currently there are in the region of 70 restoration projects started each year, but only in a small number of cases have planning authorities sought a planning application from restorers before projects can proceed.

6.5 In future the scale and number of projects is expected to increase, in order to meet the annual target of 20,000 hectares of peatland restoration per annum. Such increases will likely affect the extent to which projects would be regarded as needing planning permission – that is as scale or the use of machinery and more intrusive works increases, especially in large areas of open, uncultivated or undeveloped land.

6.6 The intention with permitted development rights (PDR) in this regard, is to provide clarity on the planning position for peatland restoration projects.

6.7 The questions in this section on peatland restoration PDR will focus on each aspect of the PDR in turn – the definitions, the basic grant of planning permission, the restrictions and conditions that apply to it. There will then be a general question on the proposed peatland restoration PDR as a whole.

The General Approach to PDR for Peatland Restoration

6.8 Whilst the aim of policy on peatland restoration is for the number and size of peatland restoration projects to grow, and for the funding streams to diversify, the expectation is that for the foreseeable future the majority will continue to depend on public sector funding. Where a project is not relying on public funds, then it is likely to be registered and validated under the Peatland Code.

6.9 Currently Peatland Action¹³ delivers the bulk of projects for peatland restoration across Scotland that use funds provided from the Scottish Government. Its officers are hosted within NatureScot and a number of partner organisations, including Scottish Water and the National Park Authorities. As part of their work in authorising funding they carry out an assessment of projects to ensure compliance with legislative requirements and good practice.

6.10 The Peatland Code¹⁴ is a voluntary certification standard for UK peatland projects wishing to market the climate benefits of peatland restoration. It is administered by the International Union for Conservation of Nature (IUCN), the world's largest network of environmental experts.

6.11 To access these voluntary carbon markets buyers need to be given assurance that the climate benefits being sold are real, quantifiable, additional and permanent. The Peatland Code is the mechanism through which such assurances can be given. The Peatland Code is currently a standard for verifying greenhouse gas emissions, and is not a general code for restoration good practice. It can require projects to demonstrate how they have planned their restoration in line with best available guidance, such as from the IUCN¹⁵, as well as other specific guidance on peatland restoration and archaeology available from statutory agencies for the historic environment.

6.12 The overall approach proposed is therefore that, given for the foreseeable future the majority of peatland restoration projects are likely to require support through the Peatland Action programme, with some using the Peatland Code approach to attract private finance, there are unlikely to be projects proceeding without a significant degree of scrutiny, wide ranging PDR can be granted for such projects.

Q.49 Do you agree with the general approach to PDR for peatland restoration, (i.e. wide ranging PDR given the likely oversight via Peatland Action and via the Peatland Code)?

If you do not agree please explain why.

¹³ <https://www.nature.scot/climate-change/nature-based-solutions/peatland-action>

¹⁴ <https://www.iucn-uk-peatlandprogramme.org/funding-finance/peatland-code>

¹⁵ <https://www.iucn-uk-peatlandprogramme.org/news/new-edition-conserving-bogs-management-handbook>

Defining the Permitted Development Rights for Peatland Restoration

6.13 There is no single, overarching approval process for all peatland restoration projects to which PDR can be attached. While there are maps of peatland areas, we do not believe they are sufficiently formal in nature to allow PDR to be legally attached to them – that is, they are not, for example, maps of legally designated areas, with boundaries and which are subject to formal procedures for being changed or updated.

6.14 As far as a definition of ‘peatland’ is concerned, these can be highly technical or not necessarily helpful for the purposes of readily identifying peatland. Consequently, the intention is that PDR will rely on a general understanding of what constitutes peatland.

Q.50 Do you agree with the approach to PDR for peatland restoration that relies on a general understanding of what will constitute peatland?

If you do not agree please explain why.

6.15 Our proposed approach is to apply PDR to ‘peatland restoration’ without further definition.

Q.51 Do you agree with this approach to a blanket PDR for ‘peatland restoration’?

If you do not agree please explain why.

Conditions and restrictions on PDR for Peatland Restoration

Designated Areas

6.16 The principal concern identified in the sustainability appraisal relating to peatland restoration was the potential loss of, or damage to, archaeological and cultural artefacts. The sustainability appraisal suggested mitigation in the form of prior notification/prior approval in designated areas, particularly those designated for cultural heritage or archaeological assets.

6.17 Designations for natural heritage, namely Sites of Special Scientific Interest and European Sites have their own safeguards, that is, respectively the requirements on ‘potentially damaging operations’, and under the Conservation (Natural Habitats &c.) Regulations 1994. Built heritage designations, other than listed buildings and scheduled monuments, normally rely on controls under legislation on the granting of planning permission.

6.18 Peatland Action, in its planning, application and assessment process, considers historical, cultural and archaeological interests. This is one of the many aspects Peatland Action cover that ensures projects are completed in a professional manner, within tight time constraints. Peatland Action have also been working with Historic Environment Scotland to ensure that undesignated

features and the effects of restoration are fully considered and understood in the future.

6.19 Under the Peatland Code applicants are required to prepare statements that cover restoration and management activities and statements of environmental and social impact. This could include considerations of historical, cultural and archaeological heritage.

6.20 We therefore do not propose to have restrictions or requirements in particular designated areas regarding peatland PDR.

Q.52 Do you agree that as peatland restoration projects will likely be subject to oversight from Peatland Action, or validation under the Peatland Code, there is no need for additional controls on related PDR in designated areas?

If you do not agree please explain why.

Access Tracks (Private Ways)

6.21 Where peatland restoration sites are remote from existing roads and tracks, peatland restoration projects may require a new access track. Given the imperatives around climate change, we are interested in people's views regarding the issue of PDR for temporary access tracks necessary to carry out peatland restoration.

6.22 The 2019 Sustainability Appraisal identified the likely significant positive and negative environmental, social and economic effects of PDR for peatland restoration *excluding* access tracks. We will ensure that all statutory assessment obligations are met before any new proposals for PDR in respect of access tracks for peatland restoration are progressed, including any obligations arising under the Environmental Assessment (Scotland) Act 2005.

Q.53 Do you think there should be PDR for new temporary access tracks (private ways) which may be necessary to carry out peatland restoration projects?

Please explain your answer.

Q.54 What sort of time limits and restoration requirements do you consider should apply to any PDR for temporary access tracks (private ways) for peatland restoration projects?

Please explain your answer.

Q.55 If possible, should any PDR for temporary access tracks (private ways) for peatland restoration only apply to projects which have been approved for funds provided by the Scottish Government, through Peatland Action or other bodies?

Please explain your answer.

Other Conditions and Restrictions

6.23 As indicated by the proposals, the aim is to be very wide ranging in the PDR for peatland restoration. Given that approach, there is a risk that planning permission could be granted, however inadvertently, for inappropriate development.

6.24 One issue is where peat is transferred for the purposes of peatland restoration. The intention is that the transfer of peat within a restoration site, for the purposes of restoration, should be allowed under PDR. Also the bringing in of peat to a restoration site for the purposes of peatland restoration. However, the extraction of peat outside the restoration site would not be granted permission by the peatland restoration PDR, nor would removal of peat from the restoration site.

Q56. Do you agree that the peatland restoration PDR should allow for the transfer of peat within the restoration site and for peat to be brought into the restoration site?

If you do not agree please explain why.

Q57. Do you agree that the peatland restoration PDR should not grant permission for the extraction of peat outside the restoration site or for removal of peat from the restoration site?

If you do not agree please explain why.

Q.58 Are there any other forms of development which could be granted planning permission by the PDR for peatland restoration as proposed, which should be restricted or controlled?

Please explain your answer, setting out what sorts of development you consider should be restricted and why.

Q.59 Do you have any other views or points to make about the proposed PDR for peatland restoration?

7. Development Related to Active Travel

Existing Permitted Development Rights

7.1 Active travel means cycling, walking and wheeling and includes the use of bikes, adaptive bikes, wheelchairs and mobility scooters for everyday journeys. Added to this is the growing popularity of e-bikes, bicycles with an electric motor. E-bikes are regulated under the [Electrically Assisted Pedal Cycles Regulations 1983](#); regulation 4 includes restrictions on weight and the output of the motor and restricts the speed of an e-bike, under propulsion by a motor, to 15 miles an hour. E-bikes can be used on roads and cycle routes.

7.2 One positive experience of the lockdown earlier this year has been the increase in active travel and we want to take steps to lock in these changes and provide more people with the opportunity to benefit from walking and cycling. The changes to PDR proposed here are aimed at encouraging the use of bikes as a means of travel, as part of Scotland's strategy to achieve its net zero greenhouse gases emission target, and in improving health in support of the Active Scotland Delivery Plan.

7.3 Councils already have the right, under the [Roads \(Scotland\) Act 1984](#) and class 31 of the [General Permitted Development Order](#) (GPDO) to undertake road-related development on the road carriageway, on adopted footpaths and on road verges without planning permission. The definition of a road, under the Roads Act, is "any way (other than a waterway) over which there is a public right of passage (by whatever means and whether subject to a toll or not) and includes the road's verge, and any bridge (whether permanent or temporary) over which, or tunnel through which, the road passes".

7.4 Councils, as Roads authorities, also have PDR for the erection of and changes to street furniture. Planning permission is therefore not required for councils to:

- form new cycle paths or footpaths on the existing road carriageway or verge;
- form dedicated cycle lanes, by painting on roads or separating by a raised kerb, or by painting on adopted footpaths;
- form raised crossings on road carriageways;
- construct traffic islands;
- form pedestrian and 'toucan' crossings (for pedestrians and cyclists);
- provide lighting on adopted footpaths; or
- provide EV charging points built into existing street furniture, such as lampposts.

7.5 Class 31 of the GPDO also gives permission 'on land outside but adjoining the boundary of an existing road of works required for or incidental to the maintenance or improvement of the road' which provides for the formation of a cycle path or footpath outwith the carriageway but in the verge. In other circumstances, planning permission is required for the formation of a

new road, footpath or cycle path. It can be unclear, given the wording of class 31, when a new footpath or cycle path can be formed without having to apply for planning permission, and we will give consideration to whether that uncertainty can be removed through amendments to definitions in the GPDO and/or through guidance.

7.6 We do not propose any changes to existing permitted development rights for works within the road carriageway and verge.

7.7 The creation of new walking and cycling routes remote from existing roads and footpaths does require planning permission, though existing PDR allow for the replacement and/or improvement of the surface of established paths. Given the need for scrutiny of the impacts of proposed new routes outwith the road boundary we do not propose to introduce PDR for the formation of new footpaths or cycle paths away from existing roads.

7.8 Householders in detached, semi-detached and terraced houses already have extensive PDR for the erection of storage sheds large enough for bikes and mobility scooters, as long as the sheds are not in front of the principal elevation (i.e. to the rear or side of the house, as long as the side of the house does not front a road). However, the same PDR does not apply to other types of residential property.

7.9 Planning permission is currently required for storage sheds to the front of a house, or to the side of a house if the side fronts a road. In a conservation area, a shed with a floorspace of more than four metres also needs consent, even in the rear or side garden. Listed building consent will also be required if a storage shed adjacent to a listed building would affect the character of the listed building.

Proposals for extensions to PDR for storage sheds/structures for bicycles

7.10 In order to encourage ownership and use of bicycles, and to give all householders the right to erect external storage for cycles and scooters in a convenient location, it is proposed to extend PDR to give all householders the right to erect bicycle/scooter stores to the front of their properties. It is also proposed to extend the same rights to owners of flats with a private garden space, and to allow flatted properties with private garden space to erect communal storage sheds within the curtilage of the flat block. Care will need to be taken to ensure that storage sheds erected under this amendment do not block the view of drivers on the road or exiting from their driveways.

7.11 It is proposed to extend the same PDR to houses and flats in conservation areas, perhaps with additional control over materials. It is also proposed to increase the floorspace restriction of four square metres for sheds in the rear gardens of houses in conservation areas to eight square metres, to allow for the storage of adaptive bikes and bike trailers as well as bikes and mobility scooters.

7.12 In order to give residents of flats without a private external garden area the right to secure ground level storage of bikes, it is proposed to introduce PDR for communal bike storage sheds (hangars) in public places.

7.13 E-bikes are significantly heavier than pedal bikes, so these proposals should help facilitate the ownership and use of e-bikes. Charging points for e-bikes are not being considered as part of this consultation, as many e-bikes have removable batteries, negating the need for a dedicated charging point. In any case, the addition of a power supply to a bike store would not require planning permission, so the storage solutions suggested above would also allow for the charging of e-bikes which do not have a removable battery. Extending PDR to allow charging points for e-bikes will be considered alongside new PDR for EV charging stations for cars, in Phase 2 of our programme.

Houses

7.14 Specialist bicycle and scooter storage structures are widely available, in a variety of materials and sizes. Individual storage sheds, which will hold a mobility scooter or up to four bikes, can measure as little as 1.2 metres in height, 2 metres in width and 1 metre in depth. A secure cycle or scooter store could therefore be as little as 200 mm higher than a one metre fence, which is allowed under existing permitted development rights.

7.15 Allowing householders to erect or site a cycle store of these dimensions in the front garden would not, it is considered, give rise to a significant impact on residential and visual amenity – though it is proposed that finishing materials for the stores in conservation areas should be restricted to timber and that sheds would not be permitted if they would compromise traffic and pedestrian safety by blocking a sightline. Preliminary research suggests that most applications of this sort are approved under the current regulations.

Q.60 Do you agree with the proposal to allow the erection of a cycle store in the front or side garden of a house up to a maximum size of 1.2 m height, 2 m width and 1.5 m depth?

If you disagree please explain why.

7.16 Houses in conservation areas have existing PDR to erect a storage shed of up to four square metres floorspace to the rear of the property. It is proposed to increase this floorspace limit to eight square metres to facilitate the storage of adaptive bikes, bikes with trailers and mobility scooters. It is also proposed to allow the construction of bicycle stores up to a maximum size of 1.2 metres in height, 2 metres in width and 1 metre in depth in the front or side gardens of houses in conservation areas,.

Q.61 Do you agree with the proposal to permit cycle stores up to 1.2 metres in height, 2 metres in width and 1 metre in depth in the front or side garden of a house in a conservation area?.

If you disagree please explain why.

Q.62 Should such an extension to PDR should be subject to a restriction on materials?

Please explain your answer

Q.63 Do you agree with the proposal to increase the floorspace of storage sheds allowed in the rear garden of houses in conservation areas to eight square metres?

If you do not agree please explain why.

Flats

7.17 Some ground floor flats and cottage flats have a private, allocated garden space. There is currently no PDR for the erection of a storage shed in the curtilage of any flat development, including flats with their own garden area. It is proposed to extend the PDR for bike storage sheds (up to the same maximum dimensions as for houses) to flats which have an allocated garden area, including in a conservation area.

Q.64 Do you agree with the introduction of PDR for the erection of a cycle store in the private garden area of a flat, including in a conservation area?

If you disagree please explain why.

7.18 Most modern blocks of flats will have a parking court and communal spaces, which will often have sufficient space to allow for the construction of a communal, secure cycle store without affecting the parking area. If this is not the case, and the erection of a cycle store would necessitate the removal of some parking spaces, the residents of the flats – the co-owners of the parking court in most cases – would need to agree to the loss of these spaces. A typical cycle store, which can hold up to six bikes, would take up half a traditional car parking space, and would be about 1.5 metres in height. If the cycle store is sited in or adjacent to the parking court, we consider that it would be unlikely to have a detrimental impact on the amenity of the surrounding area.

7.19 Traditional Scottish tenement buildings with a common close generally have a communal drying green, also in common ownership (some accessed via a lane at the rear of the flats) which is used for bin storage and collection. In these cases, a communal store at the rear of the building, in the common backcourt area, would normally be private to the residents of the block, and not visible from the street. Again, we consider that the erection of a communal bike hangar in such circumstances would not be likely to have an impact on visual or residential amenity.

7.20 Communal bike/mobility scooter storage for larger blocks of flats would by necessity be larger than cycle/scooter sheds which serve individual houses; for this reason, it is proposed to restrict PDR to the rear of blocks of flats.

7.21 We propose to introduce PDR to give flatted developments the right to erect a cycle store in the rear parking court or backcourt of a flatted block, of sufficient size to store two bikes per flat, including in conservation areas.

Q.65 Do you agree with the proposal to allow cycle stores sufficient to accommodate up to two bikes per flat to the rear of larger blocks of flats, including in conservation areas?

If you disagree please explain why.

Offices, commercial and industrial buildings (classes 4, 5 and 6 of the Use Classes Order)

7.22 Offices with car parks will generally have sufficient space to erect a cycle shelter for employees and, where not, the loss of a small number of car parking spaces to accommodate a communal shelter is considered to be acceptable, as long as the spaces affected are not for disabled drivers. We therefore propose to introduce PDR for secure, communal cycle stores in the curtilage of offices, commercial and industrial buildings of a size suitable to accommodate a number of bikes proportionate to the floorspace of the office.

Q.66 Do you agree with the introduction of PDR to allow the erection of cycle stores for buildings of class 4, 5 and 6 uses?

If you disagree please explain why.

Other Locations

7.23 Many railway stations and shopping centres already provide some bike parking facilities, in the form of Sheffield type racks, which do not currently require planning permission. Secure, covered cycle storage at public locations, which does require planning permission, would undoubtedly encourage the use of bicycles and e-bikes, and could in many cases be successfully integrated into the urban environment.

7.24 For example, Edinburgh has recently sited secure communal bike hangars on the street in built up parts of the city where local residents who live in flats do not have easy access to secure storage. The hangars are metal and each holds up to six bikes and measure 1.36 metres in height, 2.55 metres in length and 2 metres in depth. Each takes up approximately half a car parking space.

7.25 We propose to introduce PDR for the siting of up to four cycle stores of up to 1.36 metres in height, 2.55 metres in length and 2 metres in depth within a street block of 100 metres length in public places. The cycle stores should

ideally be placed on the road carriageway (replacing car parking spaces other than disabled parking spaces as necessary) and should not reduce the width of the public footpath.

Q.67 Do you agree with the introduction of PDR to allow the erection of cycle stores on-streets?

If you disagree please explain why.

Q.68 If such PDR is introduced, do you agree with the proposed maximum size for the cycle stores, and the proposed restriction on the number allowed in a particular street or block?

If you disagree please explain why.

Q.69 If such PDR is introduced, do you think it should be allowed in conservation areas and, if so, should it be subject to any other limitations on size, materials etc?

If you disagree please explain why.

Q.70 Is there any other amendment to the General Permitted Development Order that you think we should consider in order to encourage active travel further?

8. SEA Post-adoption Statement Summary

8.1 The Scottish Government set out its Proposed Work Programme for reviewing and extending permitted development rights (PDR) (referred to as “the proposed programme”) in November 2019. The proposed programme was the first step in an iterative and ongoing policy process which has been, and will continue to be, informed by a Sustainability Appraisal (SA) incorporating Strategic Environmental Assessment (SEA) requirements¹⁶. The SA was undertaken by independent consultants LUC commissioned by the Scottish Government.

8.2 A Sustainability Appraisal Report setting out the potential environmental, social and economic effects arising from the proposed programme was consulted on alongside the proposed programme from 5 November 2019 – 28 January 2020. The SA report considered broad options for changes to PDR across a range of development types.

8.3 The draft Post Adoption Statement published alongside this consultation sets out how the views gathered on the environmental, social and economic considerations incorporated within the Sustainability Appraisal have been taken into account in finalising the Proposed Work Programme and in progressing the detailed proposals for Phase 1 changes to PDR. The draft Post Adoption Statement will continue to be updated as future work on the remaining phases of the PDR programme is progressed. We will also give consideration to whether any further appraisal or assessment is required at each step of the iterative policy process.

8.4 In the meantime, the draft Post Adoption Statement sets out:

- how the environmental, social and economic considerations have been integrated into the iterative programme for expanding PDR;
- how the Sustainability Appraisal Report has been taken into account;
- how the opinions of consultees have been taken into account;
- the reasons for choosing the programme as adopted, in light of the other reasonable alternatives considered; and
- the measures to be taken to monitor any significant environmental effects arising from implementation.

8.5 Furthermore, we have also undertaken some additional assessment of the Phase 1 proposals, including any new or updated SA findings. This includes an assessment of those Phase 1 proposals that were not considered as part of the original Sustainability Appraisal. This additional assessment is published alongside this consultation as an update to the Sustainability Appraisal.

¹⁶ The Sustainability Appraisal incorporates SEA requirements under the Environmental Assessment (Scotland) Act 2005.

Q.71 What are your views on the findings of the Update to the 2019 Sustainability Appraisal Report that accompanies this consultation document?

(N.B. Consultees are asked to avoid restating their views on the November 2019 consultation as these views are already being taken into account.)

9. Assessment of Impacts

9.1 In addition to Strategic Environmental Assessment we have undertaken a number of other assessments of our draft proposals (or screened proposals to see whether an assessment is required). Our initial and draft assessments are set out in annexes B-F and we would welcome feedback on these as part of the consultation. The draft assessments and screening assessments undertaken include:

- A Business and Regulatory Impact Assessment (BRIA) that considers the costs and benefits, particularly with regard to business, of the proposed changes. We will engage with businesses likely to be affected by the proposals during the consultation period to confirm/supplement our conclusions (see Annex B);
- An Equality Impact Assessment (EqIA) that considers the impact of the draft proposals on various equalities groups defined by protected characteristics such as age, sex, religious or other belief, race or sexual orientation (see Annex C);
- A Children's Rights and Wellbeing Impact Assessment (CRWIA) that considers the impact of the changes on children. Our initial conclusion following a screening of proposals is that a full assessment is not required (see Annex D);
- A Fairer Scotland Duty Assessment that considers how we can reduce inequalities of outcome caused by socio-economic disadvantage, when making strategic decisions. Our initial conclusion following a screening of proposals is that a full assessment is not required (see Annex E); and
- An Island Communities Impact Assessment (ICIA) that considers the impact of proposed changes on Scotland's islands. Our initial conclusion following a screening of proposals is that a full assessment is not required (see Annex F).

9.2 A Data Protection Impact Assessment (DPIA) was not considered relevant to these proposals because none pose any risk to privacy or data protection.

9.3 We invite views on these draft and partial impact assessments as part of this consultation. In particular:

Q.72 Do you have any comments on the partial and draft impact assessments undertaken on these draft Phase 1 proposals?

Q.73 Do you have any suggestions for additional sources of information on the potential impacts of the proposals that could help inform our final assessments?

10. Responding to this Consultation

10.1 We are inviting responses to this consultation by 12 November 2020.

10.2 Please respond using the Scottish Government's consultation hub, Citizen Space by accessing and responding to this consultation online at [<https://consult.gov.scot/planning-architecture/programme-reviewing-extending-pdr>]. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses must be submitted by the closing date of 12 November 2020 to be considered.

10.3 If you are unable to respond using our consultation hub, please complete and send the Respondent Information Form to:

Planning.PDRphase1consultation2020@gov.scot or

Planning Development Delivery Team
(PDR Review)
Scottish Government
Area 2F South
Victoria Quay
EDINBURGH
EH6 6QQ

Handling your response

10.4 If you respond using the consultation hub, you will be directed to the "About You" page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and will treat it accordingly.

10.5 All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

10.6 To find out how we handle your personal data, please see our privacy policy: <https://beta.gov.scot/privacy/>

Next steps in the process

10.7 Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

10.8 Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

10.9 Responses to the consultation will help inform the final development of proposals and the drafting of regulations that will be laid in the Scottish Parliament amending the General Permitted Development Order to bring the changes into effect. Subject to confirmation by the Scottish Parliament it is anticipated that changes resulting from this process will come into force in Spring 2021.

Annex A: Digital Communications Infrastructure: Additional information

The Prior Notification/Prior Approval Regime for Digital Telecommunications Infrastructure

A.1 The Prior Notification/Prior Approval regime means before beginning development, developers must ask the planning authority whether its prior approval of specified aspects of the development is required or not.

A.2 The PDR for new ground based masts has a particular form of prior notification/ prior approval, which involves neighbour notification and other requirements, and a 56 day period within which the planning authority has to respond to indicate whether its prior approval is required and, if so, whether or not it is granted. If a planning authority does not issue a decision within 56 days, the developer can proceed.

A.3 Further details can be found in Annex G (paragraphs 66 to 96) of the revised Circular 2/2015 on Non-domestic Permitted Development Rights¹⁷

A.4 Prior approval would not apply where Class 67 PD rights are exercised in an emergency.

A.5 In other areas of PDR, the more **standard version** of prior notification/ prior approval, involves prior notification, from which the planning authority has 28 days to indicate whether its prior approval is required. If it does so, then development cannot proceed unless and until prior approval is granted. There are rights of appeal to Scottish Ministers¹⁸ if a decision on prior approval is not issued within statutory timescales or where prior approval is refused.

NOTE: In this consultation paper, other than proposals regarding PDR in relation to new ground based masts, reference to using prior notification/prior approval should be taken to mean the standard version. If you consider some other form of prior notification/ prior approval should apply, please signal this in your answer.

¹⁷ <https://www.gov.scot/publications/planning-circular-2-2015-consolidated-circular-non-domestic-permitted-development/>

¹⁸ Section 28 of the Town and Country Planning (Scotland) Act 2019 contains new powers, not yet commenced, for planning authorities to delegate prior approval decisions such that they are subject to local review procedures as opposed to appeals to Scottish Ministers.

Annex B: Business and Regulatory Impact Assessment Template

Title of Proposal

General Permitted Development Order - Agriculture, Digital, Active Travel and Peatland Restoration

Purpose and intended effect

Background

Permitted development rights (PDR) refer to those forms of development which are granted planning permission nationally through legislation, meaning they can be undertaken without having to make an application to the planning authority in the usual way. They are, however, subject to specific conditions and limitations to protect amenity and to control the impacts of the development to which they relate. Current PDR in Scotland are governed by the [Town and Country Planning \(General Permitted Development\) \(Scotland\) Order 1992](#) ("the GPDO").

In November 2019 we consulted on a proposed work programme for substantially reviewing and extending Permitted Development Rights in Scotland along with the Sustainability Appraisal undertaken by consultants to inform the work. The consultation paper together with responses received are available to view at this link <https://consult.gov.scot/localgovernment-and-communities/reviewing-and-extending-pdr/>.

The Sustainability Appraisal considered the scope for reviewing permitted development rights for 16 separate development types, and provided an assessment of expected benefits that could be realised by extending PDR, as well as any disadvantages.

The Covid-19 pandemic has resulted in our work programme being reprioritised to support our recovery from the pandemic. There are 4 key areas we intend to initially take forward:

- Agriculture
- Digital
- Active Travel
- Peatland Restoration

Objective

Extending current PDR or introducing new PDR supports Scotland's ongoing recovery from the COVID Pandemic

Our proposals seek to boost the Scottish Economy and help to meet our climate change ambitions. They are intended to support the expansion and improvement in Digital Communication, allow residents to erect storage for bikes and other active travel equipment in front gardens, restore Scotland's vital peatlands and allow for increased agricultural development and

diversification, as well as the delivery of new homes (including affordable properties) in rural areas.

Rationale for Government intervention

It is widely acknowledged that the Planning System can play an integral role in achieving all of the outcomes included in the National Performance Framework. The changes we are proposing to bring forward relating to agriculture, digital communications, active travel and peatland restoration can contribute to the specific outcomes of Economy, Environment, Fair Work and Business, Health and Children and Young People.

Removing the requirement for some developments to submit an application for planning permission means that development can be progressed more swiftly, taking advantage of improvements to technology or react to situations.

Agriculture

We propose to:

- Approximately double the size of new agricultural buildings (from 465m² to 1,000m²) that may be erected under PDR (subject to prior approval) and double of the size of extensions to existing agricultural buildings that may be carried out without prior approval
- Introduce a new PDR for the conversion of agricultural buildings to residential and other commercial uses subject to a number of conditions and limitations, including prior approval in respect of a number of matters
- Make equivalent provision in respect of forestry buildings.

Digital Communications

We propose:

- increases to existing PDR limits for digital infrastructure (e.g. new masts, extensions to existing masts, antenna and kit on buildings, equipment cabinets on the ground and underground development);
- extensions of PD rights into sensitive areas (but subject to lower size/heights limits); and
- to ensure that PDR is compliant with Article 57 of the EU Directive in relation to Small Aerial Wireless Access Points (SAWAP).

Active Travel

We propose to:

- introduce PDR for a storage shed in the front garden of properties without external access to a rear garden – subject to a height and size limit. Aim will be to make it big enough to store 1-2 bikes and/or an adapted bike or mobility scooter

- introduce PDR for storage sheds in the rear garden and/or the car park of shared properties (i.e. flats) – subject to a height/size limit
- introduce PDR for storage sheds/shelters in the car parks/grounds of offices – subject to height/size limit
- introduce PDR for storage sheds/shelters in certain public spaces (e.g. on roads in dense residential areas, near train stations) – subject to height/size limits. Some shelters (e.g. those on road) would still be subject to the TRO process
- clarify what active travel ‘developments’ already enjoy PDR (e.g. cycle lanes on road)

Peatland Restoration

We are proposing that PDR relies on a generally accepted understanding of what constitutes peatland, and that peatland restoration operations are not specifically defined. The proposals do not contain any restrictions, though they do not include PDR for hill tracks for peatland restoration purposes.

Given the broad nature of the proposed PDR, it seems unlikely they would introduce any costs for peatland restoration.

Consultation

Within Government

Discussions were undertaken involving a Virtual Review Group, which consisted of key stakeholders with knowledge and expertise, from scoping stage through to informing the sustainability on the options for change.

Agriculture

Proposals have been informed by engagement with a number of Directorates within Scottish Government, including relevant policy teams in the Agricultural and Rural Economy Directorate, Transport Scotland, the Directorate for Local Government and Communities, the Directorate for Housing and Social Justice and the Directorate for Environment and Forestry. Prior to public consultation, targeted engagement was carried out with a number of stakeholders including the National Farmers Union Scotland, Scottish Land and Estates, Heads of Planning Scotland, Scottish Environment Protection Agency, Scottish Natural Heritage and Historic Environment Scotland.

Digital

Towards the end of the consultation period on the sustainability appraisal, together with the proposed work programme, an engagement paper was issued to the key stakeholders in advance of workshops which were planned for March 2020. Given the situation with the pandemic, those workshops had to be cancelled and the PDR work subsequently paused and refocussed.

A targeted pre-consultation engagement paper was circulated in July 2020 to key stakeholders within industry, public sector and environmental bodies and their responses assisted in the preparation of the consultation questions. The consultation paper on digital has been shared with policy leads within Scottish Government's Digital Connectivity team.

Active Travel

Discussions on extending permitted development rights for the storage of bikes and other potential works to do with active travel have taken place with Transport Scotland, Sustrans, Cycling UK, NatureScot, Living Streets Scotland and Historic Environment Scotland. Discussions with Sustrans and Transport Scotland have been particularly helpful in considering the different types of bikes and storage solutions which are available such as adaptive bikes, trikes and communal bike storage.

Peatland Restoration

The proposals on permitted development rights for peatland restoration have been discussed with the team promoting peatland restoration. A discussion paper was circulated in August 2020 to the National Peatland Group, which includes representatives from that team, local authorities, national park authorities, Scotch Whisky Association, Scottish Renewables, Scottish Water, Scottish Land & Estates, RSPB, Community Land Scotland, University of the Highlands & Islands, Scottish Forestry, International Union for Conservation of Nature UK Peatland Project, Buglife, as well as Scottish Environment Protection Agency, Scottish Natural Heritage and Historic Environment Scotland.

Public Consultation

As previously indicated, in November 2019 we consulted on a proposed work programme for substantially reviewing and extending Permitted Development Rights in Scotland along with the Sustainability Appraisal undertaken by consultants to inform the work.

The consultation on the proposed changes to Agriculture, Digital Communications, Active Travel and Peatland Restoration will be published week commencing 21st September with a 6 week period in which to respond (week commencing 6th November). Events will be arranged during that 6 week period to allow people chance to learn more detail about the proposals and to ask questions.

Business

Some limited consultation has been undertaken with businesses in advance of the public consultation to help shape our proposals. As indicated above further engagement will be undertaken during the consultation period to help inform our final proposals for change. Outlined below is an indication of the engagement already undertaken.

Options

Option	
Do Nothing – all classes	No changes would be made to the General Permitted Development Order with current restrictions on development remaining in place.
Option 1 – changes proposed by consultation paper	The General Permitted Development Order would be updated to extend the types of development which will not require the submission of a full application for planning permission.

Sectors and groups affected

Permitted Development Rights mainly affect directly residents, developers, landowners, community groups and planning authorities. Landowners and developers may include individual persons as well as business interests. Where PDR encourage development, then the wider public can also experience any associated benefits and/or any negative impacts of the development itself.

Benefits

Extending PDR will help to improve certainty of outcome for developers, and can help to reduce timescales for securing any necessary permissions or approvals.

By removing more proposals from the planning application process, the proposals will also help free up resources for Planning Authorities. Where prior approval is required, these benefits may be offset in part by the need to submit an application for prior approval.

However, the fee for prior approval would be less than that for an application for planning permission.

Extending PDR could:

- encourage development and improve digital connectivity,
- allow farmers/landowners to erect larger buildings to house machinery or convert existing buildings to residential or commercial uses, allowing them to diversify their current business,
- allow residents to erect containers to store bikes/scooters or other mobility devices, freeing up space within stairwells in tenement properties or within residential properties and improving access to wheeled transport; and
- encourage peatland restoration as a means to offset carbon emissions (and other environmental improvements).

All of this will benefit both businesses and the general public.

Digital

The need for improved and effective connectivity has become even more important given the nation's reliability on the use of digital communications in the Covid-19 pandemic, where we have seen significant demand on connectivity for home working, video conferencing, health consultations, public services, on line shopping etc. The benefits of enhanced digital connectivity also result in less travel which contributes significantly towards climate change measures by reducing carbon footprint. By decreasing planning controls in certain areas this will also reduce the burden on planning authorities and, therefore, speed up deployment of such infrastructure.

In 2019-20 there was 261 applications which were for telecommunications infrastructure. Of these it is not clear how many would be removed from the planning application process as a direct result of the proposals.

Peatland Restoration

Peatlands cover more than 20% of Scotland's land area. Healthy peat plays a vital role in carbon storage and combating the effects of climate change, and in maintaining Scotland's water quality and rich biodiversity. Peatlands reduce flood risk and support farming and crofting. They are also part of the wild landscapes that attract tourists to Scotland.

Healthy peatlands provide many benefits to us all – but not all of our peatlands are in good health. It is estimated that 80% of Scotland's peatlands are damaged.

There have been limited numbers of applications for planning permission up to now for Peatland Restoration projects, though currently there are in the region of 70 projects started each year. In future the scale and number of projects is expected to rise in line with the target of restoring 20,000 hectares of peatland per annum. These factors will likely affect the extent to which the question of whether planning permission is required and so, in the absence of permitted development rights, lead to requests for planning applications despite such projects being regarded as having positive impacts and minimal risks.

Active Travel

During the Review of the Planning System one of the most popular ideas on our digital forum was for the removal of the need to apply for planning permission to erect a storage unit in which to store bicycles. During the Covid-19 pandemic there has been a significant increase in the number of people cycling with many bike shops being sold out of stock or there being long waiting times to service bikes.

With this increase comes the need to provide safe and secure storage for people when at home and when undertaking errands or commuting. In our recent call for ideas for National Planning Framework 4 a requirement for secure cycle storage was also highlighted. The proposed changes will provide residents, particularly those in flats or who only have access to a garden at the front of their property, with the ability to erect a storage shed in which to store their bicycle removing the need to either carry a bike upstairs or access the rear of the property. This can have an important impact by ensuring that people have easy access to safe and secure storage. This could increase the use of bikes by making it more straightforward to access a bicycle to carry out day to day tasks.

Agriculture

Our proposals are intended to support the rural economy and complement wider Scottish Government initiatives to support Scotland's rural economy and promote rural repopulation. Amongst other things, our proposals may help to support succession planning for farms, economic diversification and sustainable communities in rural areas. The proposed PDR are subject to conditions and limitations in order to limit potential harm to local amenity.

For the Active Travel and Agriculture categories the Planning Statistics are not broken down to a level which will provide an accurate picture of how many applications are currently considered and how many applications for full planning permission will be removed by the changes which are being proposed. It may also be the case that the requirement to apply for planning permission currently acts as a deterrent due to cost or complexity, therefore granting permitted development rights may actually encourage people to carry out development.

Costs

It is expected that the proposed changes will result in savings for both planning authorities by removing the need to determine applications and to applicants in them not requiring to pay for the submission of a full planning application.

However, initially, savings may be partially offset by some indirect costs to business in ascertaining whether or not development is permitted development, and in complying with planning enforcement where any work inadvertently carried out which subsequently transpires not to benefit from PDR. However, such costs are anticipated to be minimal and short-term and will naturally fall away as developers become familiar with the changes.

In peatland restoration, costs to the environment may arise where, given the proposed very broad PDR, the level of oversight via public financial support (such as Peatland Action) or through the Peatland Code (anticipated in most cases) do not apply to a project, and a badly designed project is implemented.

Given that the likelihood of projects coming forward without public support and consideration by Peatland Action and/or the Peatland Code is low we do not consider this to be likely but we will consider whether any new guidance is necessary to further reduce the likelihood of any such errors.

For developments which do not already benefit from permitted development rights an application for planning permission is required to be submitted. The fee for submitting an application for development within the curtilage of a dwellinghouse is currently £202 with most other types of development starting at £401 and increasing on an incremental basis based on the size of the development. Applications for Prior Approval generally attract a fee of £78 although the fee for Telecommunication Masts is £300.

Scottish Firms Impact Test

As indicated we have had limited face to face discussions with firms/ organisations about our proposals however, this will take place during the consultation period.

Competition Assessment

We do not consider that the proposed changes across the 4 areas of Agriculture, Digital, Active travel or Peatland Restoration will negatively impact on competition. It is considered that the proposed changes will not limit the number or range of suppliers, the ability of suppliers to compete, suppliers' incentives to compete vigorously, or the choices and information available to consumers.

Consumer Assessment

We do not consider that the proposed changes across the 4 areas of Agriculture, Digital, Active travel or Peatland Restoration negatively impact on consumers. It is considered that the proposed changes will not affect the quality, availability or price of any goods or services in a market, affect the essential services market, such as energy or water, involve storage or increased use of consumer data, increase opportunities for unscrupulous suppliers to target consumers, impact the information available to consumers on either goods or services or their rights in relation to these, or affect routes for consumers to seek advice or raise complaints on consumer issues.

Test run of business forms

No new forms will be introduced.

Digital Impact Test

It is considered that the proposed changes will not be impacted by changes to processes brought about by digital transformation by removing the need to apply for planning permission in many instances.

Legal Aid Impact Test

It is considered that the proposed changes will not give rise to increased use of legal processes or create new rights or responsibilities which would impact on the legal aid fund.

Enforcement, sanctions and monitoring

Planning legislation sets out that enforcement is the responsibility of the planning authority in which a breach of planning control has taken place. Scottish Government guidance encourages the informal resolution of alleged breaches of planning control. Where it is established that there has been a breach and informal measures are unsuccessful in resolving the matter, there is a range of formal enforcement powers available to planning authorities.

Implementation and delivery plan

The consultation will be published week commencing 28th September with a 6 week period in which to respond (ending on 12 November). Following the closure of the consultation period analysis of the responses will be undertaken and regulations will be drafted with a view to them being laid week commencing 14th December. The regulations will then come into force in March 2021.

Once the final regulations are prepared we will consider whether additional guidance, advice and information if required for developers and planning authorities on the interpretation of the revised GPDO.

Post-implementation review

As noted in the Post Adoption Statement that accompanies this consultation we will give further consideration to monitoring and set out our proposals following the consultation. This could involve various approaches and combinations of approach, such as liaison with planning authorities, developers and statutory bodies, as well as commissioning research. Subsequent Phases of the PDR programme will consider changes to PDR for other development types.

Summary and recommendation

Extending the scope of permitted development rights can deliver benefits to both authorities and applicants. By extending the types of development which are granted permitted development rights thus removing the need to submit a full planning application it can free up local authorities to focus on the developments where they can add most value and it can provide applicants with the certainty that they can proceed with development without the cost and delay that submitting an application for planning permission can entail. It is recommended that the proposals to extend permitted development rights are progressed as outlined in the consultation paper.

Summary costs and benefits table

Option		Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
1		Current situation is maintained which is understood by applicants and authorities.	Applications will continue to be processed by planning authorities which will require fees to be paid and delay in implementing any proposals as applications are determined. Failure to progress with our proposals could risk an increase in active travel, the restoration of our valuable peatlands, delays the expansion of telecommunication infrastructure and restricts the potential diversification of rural buildings and the safe storage of agricultural machinery.
2	Agriculture	<ul style="list-style-type: none"> • It is not clear how many applications these changes will remove from the system or how many developments will be progressed in response to this change. • These changes will support rural development and diversification by allowing farmers to erect larger agricultural buildings and to convert buildings to residential and other commercial uses 	Over the short term there is potential for uncertainty while parties familiarise themselves with the scope of the new provisions. Guidance should help to overcome such transitional issues.

	Digital	<ul style="list-style-type: none"> • In 2019-20 there was 261 applications which were for telecommunications infrastructure. Of these it is not clear how many would be removed from the planning application process as a direct result of the proposals. • The need for improved and effective connectivity has become even more important given the nation's reliability on the use of digital communications in the Covid-19 pandemic, • The benefits of enhanced digital connectivity also result in less travel which contributes significantly towards climate change measures by reducing carbon footprint. • By decreasing planning controls in certain areas this will also reduce the burden on planning authorities and, therefore, speed up deployment of such infrastructure. 	<ul style="list-style-type: none"> • Costs will be for projects requiring prior approval for new masts and for new PDR in designated areas
	Active Travel	<ul style="list-style-type: none"> • It is not clear how many applications these changes will remove from the system or how many developments will be progressed in response to this change. • During the Covid-19 pandemic there has been increases in the number of people cycling. • With this increase comes the need to provide safe and secure storage for 	

		<p>people when at home, work or shops.</p> <ul style="list-style-type: none"> • This can have an important impact by ensuring that people have easy access to safe and secure storage. This could increase the use of bikes by making it more straightforward to access a bicycle to carry out day to day tasks reducing the burden on public transport and the need to use a private car supporting our ambitions to reduce carbon emissions and improve people's health and wellbeing. 	
	Peatland Restoration	<ul style="list-style-type: none"> • It is not clear how many applications these changes may remove from the system. Currently planning applications are not being pursued for the 70 or so projects each year. The number and size of projects is expected to rise in line with the target of 20,000 hectares of peatland restoration a year, which could mean planning applications would be sought for more projects in the absence of PDR. • Peatlands cover more than 20% of Scotland's land area. Healthy peat plays a vital role in carbon storage and combating the effects of climate change, and in maintaining Scotland's 	<ul style="list-style-type: none"> • Costs may be that very broad PDR could allow badly designed projects that fall outside the oversight likely to apply in most cases, with impacts on the environment

		water quality and rich biodiversity. Peatlands reduce flood risk and support farming and crofting. They are also part of the wild landscapes that attract tourists to Scotland.	
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Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed: Kevin Stewart

Date: 29th September 2020

Minister's name: Kevin Stewart

Minister's title: Minister for Local Government, Housing and Planning

Scottish Government Contact point: Neil Langhorn, Planning & Architecture Division

Annex C: Equality Impact Assessment Record

Title of policy/ practice/strategy/ legislation etc.	General Permitted Development Order – Amendments – Active Travel, Digital Communication, Agriculture and Peatland Restoration	
Minister	Minister for Local Government, Housing and Planning	
Lead official	Neil Langhorn	
Officials involved in the EQIA	name	team
	Chris Sinclair	Planning and Architecture Division: Development Delivery
Directorate: Division: Team	Local Government and Communities: Planning and Architecture Division: Development Delivery	
Is this new policy or revision to an existing policy?	Revision to Existing Policy	

Screening***Policy Aim***

Permitted development rights (PDRs) refer to those forms of development which are granted planning permission nationally through legislation, meaning they can be undertaken without having to make an application to the planning authority in the usual way. They are, however, subject to specific conditions and limitations to protect amenity and to control the impacts of the development to which they relate. Current PDRs in Scotland are governed by the [Town and Country Planning \(General Permitted Development\) \(Scotland\) Order 1992](#) (“the GPDO”).

In November 2019 we consulted on a proposed work programme for substantially reviewing and extending Permitted Development Rights in Scotland along with the Sustainability Appraisal undertaken by consultants to inform the work. The consultation paper together with responses received are available to view at this link <https://consult.gov.scot/localgovernment-and-communities/reviewing-and-extending-pdr/>.

The Sustainability Appraisal considered the scope for reviewing permitted development rights for 16 separate development types, and provided an assessment of expected benefits that could be realised by extending PDR, as well as any disadvantages.

The Covid-19 pandemic has resulted in our work programme being reprioritised to support our recovery from the pandemic. There are 4 key areas we intend to initially take forward:

- Agriculture
- Digital
- Active Travel
- Peatland Restoration

It is widely acknowledged that the Planning System can play an integral role in achieving all of the outcomes included in the National Performance Framework. The changes we are proposing to bring forward relating to agriculture, digital communications, active travel and peatland restoration can contribute to the specific outcomes of Economy, Environment, Fair Work and Business, Health and Children and Young People.

By removing some elements from requiring to submit an application for planning permission means that development can be progressed more swiftly, taking advantage of improvements to technology or react to situations.

Who will it affect?

Extending PD rights will help to improve certainty of outcome for developers, and can help to reduce timescales for securing any necessary permissions or approvals. By removing more proposals from the planning application process, the proposals will also help free up resources for Planning Authorities. Where prior approval is required, these benefits may be offset in part by the need to submit an application for prior approval.

However, the fee for prior approval would be less than that for an application for planning permission.

Extending PD rights could:

- encourage development and improve digital connectivity,
- allow farmers/landowners to erect larger buildings to house machinery or convert existing buildings to residential or commercial uses, allowing them to diversify their current business,
- allow residents to erect containers to store bikes/scooters or other mobility devices, freeing up space within stairwells in tenement properties or within residential properties; and
- restoring peatland as a means to offset carbon emissions.

All of this will benefit both businesses and the general public.

What might prevent the desired outcomes being achieved?

The key factor which may prevent the desired outcomes being achieved is if the proposed developments are not being brought forward. The Scottish Government can put in place the framework in which the need to apply for planning permission is not required however, to achieve the outcomes which we expect to be delivered will require individuals as well as businesses taking advantage of the relaxation.

Stage 1: Framing

Results of framing exercise

The initial framing exercise has shown that the key areas where PDR will have an impact on Equality groups are primarily Active Travel and Digital Communication. We consider that these impacts will be positive and have not identified any negative impacts. However, we will highlight the consultation and invite comment from representative organisations to assist with the completion of the full EQIA.

The evidence which we have identified shows that rates of active travel and of the internet reduces with age and that there can be differences across sexes as well. We will ensure that the consultation paper is highlighted to relevant representative groups to identify if they can provide more insight into how the changes we are proposing may impact directly or indirectly on equality groups.

Extent/Level of EQIA required

We consider that these proposals do not give rise to negative impacts for those with protected characteristics although targeted engagement will be carried out during the consultation. In particular we will highlight the consultation to organisations that represent the age and sex categories to ensure our assumptions about positive impacts are correct.

Stage 2: Data and evidence gathering, involvement and consultation

Include here the results of your evidence gathering (including framing exercise), including qualitative and quantitative data and the source of that information, whether national statistics, surveys or consultations with relevant equality groups.

Characteristic ¹⁹	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
AGE DISABILITY SEX PREGNANCY AND MATERNITY GENDER REASSIGNMENT SEXUAL ORIENTATION RACE RELIGION OR BELIEF	<p>Cycling contributes towards national and local policy objectives to reduce emissions, tackle congestion, increase tourism and improve physical and mental health. Cycling also aids accessibility and social inclusion objectives</p>	<p>https://www.transport.gov.scot/media/48026/cycling-by-design-july-2020.pdf Cycling by Design (July 2020)</p>	
AGE SEX	<p>Participation levels - increased for cycling - from 9 per cent to 13 per cent since 2007</p> <p>When walking excluded, difference levels across sex - men participated more in cycling (17 and 9 per cent respectively)</p> <p>Cycling most popular in the 35-44 age group. Falls to only 2 per cent for the 75+ group</p> <p>Participation: Most deprived 20% - 8% Least deprived 20% - 13%</p>	<p>Scottish Household Survey (Sept 2019)</p> <p>https://www.gov.scot/publications/scotland-people-annual-report-results-2018-scottish-household-survey/pages/8/</p>	

¹⁹ Refer to Definitions of Protected Characteristics document for information on the characteristics

	<p>Although older adults were less likely to use the internet, the gap in internet use between adults aged 16-24 and adults aged 60 and above has fallen over time from 57 percentage points in 2007 to 35 percentage points in 2018. This result has mainly been driven by an increase in internet use amongst adults aged 60+ (from 29 per cent to 65 per cent).</p> <p>Overall there was no significant difference in use of internet between genders</p>		
AGE	<p>NPF4 Call for Ideas – Analysis (Aug 2020) https://www.gov.scot/binaries/content/documents/govscot/publications/consultation-analysis/2020/08/npf4-analysis-reponses-call-ideas/documents/national-planning-framework-4-analysis-responses-call-ideas/national-planning-framework-4-analysis-responses-call-ideas/govscot%3Adocument/national-planning-framework-4-analysis-responses-call-ideas.pdf?forceDownload=true</p>		

	Peatlands restoration	Respondents pointed to the importance of restoration of peatlands, with suggestions this should increase and that, where possible, peat forming function should be restored.	
	Digital	It was noted that connectivity in rural areas could also help reverse depopulation and the drift to urban centres (especially of younger people)	
	Active Travel	With respect to active travel there were calls for a better network of good quality footpaths and cycle paths, not only linking housing developments with town centres but also connecting to longer distance paths and cycle routes. A requirement for secure cycle storage was highlighted.	
AGE	Young People and the Highlands and Islands (2018)	There is a deficit of young people in the Highlands and Islands – those aged 15-30 comprise 17% of the total population compared to 21%	

	https://www.hie.co.uk/research-and-reports/our-reports/2018/may/31/yp-research/#:~:text=Young%20People%20and%20the%20Highlands%20and%20Islands%3A%20Maximising,relation%20to%20the%20Highlands%20and%20Islands%20of%20Scotland.	across Scotland – and this is projected to continue. Much of this deficit is a result of out-migration within the 15-19-year-old age group as significant numbers leave to pursue education and employment opportunities.	
AGE	<p>Children and parents: media use and attitudes report 2019 (February 2020)</p> <p>https://www.ofcom.org.uk/research-and-data/media-literacy-research/childrens/children-and-parents-media-use-and-attitudes-report-2019</p>	Social media is central for both tweens and teens. Some 21% of 8-11s and 71% of 12-15s have a social media profile. It also noted that 2019 saw an increase in the proportion of 12-15s who use social media to support causes and organisations by sharing or commenting on posts (18% in 2019 vs. 12% in 2018).	

Stage 3: Assessing the impacts and identifying opportunities to promote equality

Having considered the data and evidence you have gathered, this section requires you to consider the potential impacts – negative and positive – that your policy might have on each of the protected characteristics. It is important to remember the duty is also a positive one – that we must explore whether the policy offers the opportunity to promote equality and/or foster good relations.

Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission. It is considered that this should not raise any issues with regards to discrimination, harassment or victimisation.
Advancing equality of opportunity	X			<p>It is considered that by extending permitted development rights to allow for the erection of storage for bikes, scooters and other mobility devices in front gardens could be beneficial to those who may be able to and willing to cycle as a means of transport, however they are restricted due to the lack of access to safe, secure and easily accessible storage. For Instance people who live on the first floor or above in tenements or flatted developments.</p> <p>Improving the availability of Digital Communication technology will provide benefits</p>

				for all. For young people this could improve access to learning and create new job opportunities.
Promoting good relations among and between different age groups			X	

Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission. It is considered that this should not raise any issues with regards to discrimination, harassment or victimisation.
Advancing equality of opportunity	X			It is considered that by extending permitted development rights to allow for the erection of storage for bikes, scooters and other mobility devices in front gardens could be beneficial to those who may be able to and willing to cycle as a means of transport, however they are restricted due to the lack of access to safe, secure and easily accessible storage. For Instance people who live on the first floor or above in tenements or flatted developments.

				Improving the availability of Digital Communication technology will provide benefits for all. For disabled people this could have a transformative effect on job opportunities for instance by reducing the need to travel for work for instance.
Promoting good relations among and between disabled and non-disabled people			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission. It is considered that it would not have any impact on relations among disabled and non-disabled people.

Do you think that the policy impacts on men and women in different ways?

Sex	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission. It is considered that this should not raise any issues with regards to discrimination.
Advancing equality of opportunity	X			It is considered that by extending permitted development rights to allow for the erection of storage for bikes, scooters and other mobility devices in front garden could be beneficial to those who may be able to and willing to cycle as a means of transport however they are restricted

				due to the lack of access to safe, secure and easily accessible storage. For Instance people who live on the first floor or above in tenements or flatted developments.
Promoting good relations between men and women			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission. It is considered that it would not have any impact on relations between men and women.

Do you think that the policy impacts on women because of pregnancy and maternity?

Pregnancy and Maternity	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission. It is considered that this should not raise any issues with regards to discrimination.
Advancing equality of opportunity			X	
Promoting good relations			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission.

Do you think your policy impacts on people proposing to undergo, undergoing, or who have undergone a process for the purpose of reassigning their sex? (NB: the Equality Act 2010 uses the term ‘transsexual people’ but ‘trans people’ is more commonly used)

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission. It is considered that this should not raise any issues with regards to discrimination.
Advancing equality of opportunity			X	
Promoting good relations			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission.

Do you think that the policy impacts on people because of their sexual orientation?

Sexual orientation	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission. It is considered that this should not raise any issues with regards to discrimination.

Advancing equality of opportunity			X	
Promoting good relations			X	

Do you think the policy impacts on people on the grounds of their race?

Race	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission. It is considered that this should not raise any issues with regards to discrimination.
Advancing equality of opportunity			X	
Promoting good race relations			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission and we do not believe that this will have an impact positively or negatively on race relations.

Do you think the policy impacts on people because of their religion or belief?

Religion or belief	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take

				forward development without needing to apply for full planning permission. It is considered that this should not raise any issues with regards to discrimination.
Advancing equality of opportunity			X	
Promoting good relations			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission.

Do you think the policy impacts on people because of their marriage or civil partnership?

Marriage and Civil Partnership²⁰	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The proposals we are bringing forward relate to the ability of individuals and businesses to take forward development without needing to apply for full planning permission and we do not believe that this will have an impact positively or negatively on eliminating discrimination.

²⁰ In respect of this protected characteristic, a body subject to the Public Sector Equality Duty (which includes Scottish Government) only needs to comply with the first need of the duty (to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010) and only in relation to work. This is because the parts of the Act covering services and public functions, premises, education etc. do not apply to that protected characteristic. Equality impact assessment within the Scottish Government does not require assessment against the protected characteristic of Marriage and Civil Partnership unless the policy or practice relates to work, for example HR policies and practices.

Stage 4: Decision making and monitoring

Identifying and establishing any required mitigating action

Have positive or negative impacts been identified for any of the equality groups?	Positive impacts have been identified relating to Active Travel and Digital Communication in the Age and Sex categories.
Is the policy directly or indirectly discriminatory under the Equality Act 2010 ²¹ ?	No
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	N/A
If not justified, what mitigating action will be undertaken?	N/A

Describing how Equality Impact analysis has shaped the policy making process

As this EQIA forms part of the consultation paper we would expect that stakeholders will play a key role in highlighting if there are any issues which we may not have considered. As previously indicated we will ensure that the consultation paper is highlighted to relevant equality groups to provide them with the opportunity to scrutinise the policy proposals and test our assumptions about the positive impacts we believe will be realised.

Monitoring and Review

²¹ See EQIA – Setting the Scene for further information on the legislation.

The consultation will be published week commencing 28th September with a 6 week period in which to respond (week commencing 9th November). Following the closure of the consultation period analysis of the responses will be undertaken and regulations will be drafted with a view to them being laid week commencing 14th December. The regulations will then come into force in March 2021.

Once the final regulations are prepared we will consider whether additional guidance, advice and information if required for developers and planning authorities on the interpretation of the revised GPDO.

As noted in the Post Adoption Statement that accompanies this consultation we will give further consideration to monitoring and set out our proposals following the consultation. This could involve various approaches and combinations of approach, such as liaison with planning authorities, developers and statutory bodies, as well as commissioning research. Subsequent Phases of the PDR programme will consider changes to PDR for other development types.

Stage 5 - Authorisation of EQIA

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes ☒ No ☐

- ◆ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:

- Eliminating unlawful discrimination, harassment, victimisation;
- Removing or minimising any barriers and/or disadvantages;
- Taking steps which assist with promoting equality and meeting people's different needs;
- Encouraging participation (e.g. in public life)
- Fostering good relations, tackling prejudice and promoting understanding.

Yes ☒ No ☐

- ◆ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also

assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

Yes ☐

No ☐

Not applicable ☒

Declaration

I am satisfied with the equality impact assessment that has been undertaken for General Permitted Development Order and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name: John McNairney

Position: Chief Planner, Scottish Government

Authorisation date: 25th September 2020

Annex D: Children's Rights and Wellbeing Impact Assessment

CRWIA Stage 1**Screening - key questions**

(Hyperlink will only work within SG)

1. Name the policy, and describe its overall aims.**Changes to the General Permitted Development Order.**

In November 2019 we consulted on a proposed work programme for substantially reviewing and extending Permitted Development Rights in Scotland along with the Sustainability Appraisal undertaken by consultants to inform the work. The consultation paper together with responses received are available to view at this link

<https://www.gov.scot/publications/scottish-governments-proposed-work-programme-reviewing-extending-permitted-development-rights-pdr-scotland/>

The Sustainability Appraisal considered the scope for reviewing permitted development rights for 16 separate development types, and provided an assessment of expected benefits that could be realised by extending PDR, as well as any disadvantages.

The Covid-19 pandemic has resulted in our work programmed being reprioritised to support our recovery from the pandemic. There are 4 key areas we intend to initially take forward:

- Agriculture
- Digital
- Active Travel
- Peatland Restoration

2. What aspects of the policy/measure will affect children and young people up to the age of 18?

It is expected that the proposed changes to the permitted development rights for agriculture and peatland restoration will have minimal impact on children and young people and it is expected that there will be positive impacts from the proposed changes to active travel and digital infrastructure permitted development rights.

The Covid-19 pandemic has demonstrated that digital technology infrastructure is vital to ensuring people can continue to work and learn if restrictions are put in place to limit physical movement. However, where people are required to move around it has also been clear that current infrastructure does not support this movement in a way in which physical distancing can be observed. During the time when lockdown restrictions were in place the numbers of people walking, cycling and running increased. This led to many Local Authorities investigating ways to ensure that appropriate space was afforded to pedestrians and cyclists to enable them to exercise and move around in a safe environment.

Extending the range of developments which don't require submission of a planning application provides that changes to infrastructure can be progressed more simply. By extending the size and type of digital technology infrastructure which benefits from PD means that equipment can be installed, increasing capacity and availability as well as allowing providers to upgrade their equipment, with newer more powerful models as technology progresses, in a more responsive manner.

By extending the range of developments which can be carried out without the need for a planning application for active travel can be positive for children and young people by improving the available infrastructure to make walking and cycling a more attractive mode of transport.

3. What likely impact – direct or indirect – will the policy/measure have on children and young people?

We believe that the changes which are proposed will only indirectly affect young people. However, we believe that these impacts will be positive by creating the conditions in which provision of digital communication infrastructure can be improved and be more responsive to changes in demand and technology and providing safe and secure cycling infrastructure. We consider that these changes will be of benefit to everyone although the benefits to children and young people include having improved access to good quality digital communication signals. With regards to cycling infrastructure this could be of particular benefit as children and young people have fewer options when it comes to transport and the storage of bikes can be a challenge for those who do not have access to a back garden or live above the first floor of a building where bikes may need to be carried up stairs.

4. Which groups of children and young people will be affected?

The EQIA which has been prepared for these proposals highlight where particular positive impacts have been identified and it is considered that the impacts which are relevant irrespective of the age of the person.

5. Will this require a CRWIA?

We do not consider that a Children's Rights and Welfare Impact Assessment is required. With regards to digital infrastructure these changes create the conditions that should lead to improved digital connectivity across Scotland providing faster and more reliable connections allowing children and young people to connect for learning, work and socially.

With regards to active travel these changes should allow businesses and authorities to put in place improved provision for cycle parking as well as making it easier for residents to install easily accessible storage solutions for bikes on their property. These changes should help encourage greater use of active travel options as these are particularly the only options available to children and young people.

CRWIA Declaration**CRWIA required****CRWIA not required****Authorisation****Policy lead**

Neil Langhorn
Development Delivery
Planning and Architecture Division
Local Government and Communities

24th September 2020**Deputy Director or equivalent**

John McNairney
Chief Planner and Deputy Director
Planning and Architecture Division
Local Government and Communities

25th September 2020

Annex E: Fairer Scotland Duty Assessment**ASSESSMENT NOT REQUIRED DECLARATION**

Policy title	General Permitted Development Order
Directorate: Division: team	Local Government and Communities: Planning and Architecture: Development Delivery
Policy lead responsible for taking the decision	Neil Langhorn

Rationale for decision
<p>It is considered that changes to specific categories of development within the General permitted Development Order do not amount to making a Strategic Change to Policy. In most cases which are proposed permitted development rights are already in place such as for agriculture, active travel and digital communications. The Restoration of Peatlands is being added as a new category of development however, it is not considered that this qualifies as a strategic decision requiring the completion of the Fairer Scotland Duty. The Permitted Development rights which are being proposed only permit certain types of development in certain circumstances and for developments which do not meet these requirements then an application for full planning permission will be required.</p> <p>Where impacts have been identified in other impact assessments these have been positive, however we will highlight and invite comment on the consultation proposals from equality groups to ensure that they have the opportunity to raise any concerns or highlight additional benefits.</p>

I confirm that the decision to not carry out a Fairer Scotland assessment has been authorised by:

Name and job title of Deputy Director (or equivalent)	Date authorisation given
John McNairney, Chief Planner and Deputy Director	25 th September 2020

Annex F: Island Communities Impact Assessment

We consider that the proposed changes will deliver positive benefits for Island Communities. Of the proposals we are bringing forward we consider that Digital Communication, Agriculture and Peatland restoration will be of particular benefit to the islands.

Digital Communication

Our proposals will allow providers to update their existing infrastructure with more up to date versions or install new more advanced technologies which will improve coverage and connectivity for some of our most remote communities.

Agriculture

Our proposals are intended to support the rural economy and complement wider Scottish Government initiatives to support Scotland's rural economy and promote rural repopulation. Amongst other things, our proposals may help to support succession planning for farms, economic diversification and sustainable communities in rural areas.

Peatland Restoration

Peatlands cover more than 20% of Scotland's land area including many of the islands. Healthy peat plays a vital role in carbon storage and combating the effects of climate change, and in maintaining Scotland's water quality and rich biodiversity. Peatlands reduce flood risk and support farming and crofting. They are also part of the wild landscapes that attract tourists to Scotland.

During the consultation period we will engage with Island Authorities to gather evidence about the impact of our proposals on Islands Communities with a view to completing the Islands Impact Assessment which will accompany the amendments to the General Permitted Development Order.

Annex G – Respondent Information Form



Scottish Government
Riaghaltas na h-Alba
gov.scot

Consultation on Planning Performance and Fees – 2019

1.

RESPONDENT INFORMATION FORM

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:

<https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

☐ Individual ☐ Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- ☐ Publish response with name
☐ Publish response only (without name)
☐ Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

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?

☐ Yes ☐ No



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APPENDIX B – Submitted Consultation Responses

SCOTTISH GOVERNMENT CONSULTATION ON REVIEWING AND EXTENDING PERMITTED DEVELOPMENT RIGHTS (PDR) IN SCOTLAND – PHASE 1

Part 4 Digital Telecommunications Infrastructure:

New Ground Based Masts:

Q.1 Do you agree with an increase in permitted height for new ground based masts to 30 metres outside designated areas, subject to the existing prior approval regime on siting and appearance? If you disagree, please explain why.

A.1 Yes.

Whilst an increase in height from 25 to 30 metres is not insignificant, the fact that it is intended to retain the existing scheme of 'prior notification/prior approval' will afford the planning authority opportunity to assess the sensitivities of each individual proposal on a site by site basis and to exercise any necessary controls on development should they be deemed necessary.

Existing Ground Based Masts:

Q.2 Do you agree that existing ground based masts should be able to be increased in height up to 30 metres (i.e. the same maximum height as for new masts proposed in Q.1 above) and that the increase should be limited to no more than 50% of the height of the original mast (whichever is the lower)? If you disagree, please explain why.

A.2 No.

It is considered that a potential increase in existing mast height of up to 50%, and to a maximum height of 30 metres, within all areas may be significant. Whilst it is accepted that existing masts will already have a 'presence' within the landscape/townscape, an increase in height of an existing mast of up to 50% may make the difference between that mast being acceptable or unacceptable in terms of its landscape/townscape and visual amenity impact.

Unlike existing and proposed PDR for new ground based mast development, PDR alterations to the height of existing masts are not the subject of the same 'prior approval' procedure. Whilst it is proposed to retain an existing requirement for a developer to submit a 'prior notification' where such development is to be undertaken under Class 67 (15)(a), this requires only that the developer inform the planning authority of its intention to carry out such works no less than 28 days beforehand. Whilst such prior notification would enable the planning authority to record the intention to undertake the development it does not include opportunity to raise concerns on the siting or design of the permitted development, or scope to issue a direction setting out a requirement for prior approval, or to formally refuse the development.

There is however no objection to the broad principle of extending PDR to this type of development and it is considered that the Council's concerns could be addressed by

extending the prior notification/prior approval principles that apply to new ground based masts to increases in height of existing masts between 30%-50%, and/or where such development is located within the 'designated areas'.

Q.3 Do you agree that we should allow existing masts which are above 30 metres in height to be increased to up to 50 metres in height? If you disagree, please explain why.

A.3 No.

Under current PDR, an existing 30 metre high mast could only be increased in height to 35 metres (or by 16.7%) without requiring planning permission. The proposed changes to PDR would mean that the same 30 metre high mast could be increased in height to 50 metres without requiring planning permission; an increase of 66.7%. This would apply across all landscape/townscape character types and sensitivities and it is considered that such an increase in PDR could have a materially harmful impact, particularly upon our more sensitive landscape/townscape designations.

There is however no objection to the broad principle of extending PDR to this type of development and it is considered that the Council's concerns could be addressed by amending the proposal which sets the permitted increase for this type of development at no greater than 20% higher than the height of the existing mast (over 30 metres) and up to a maximum height of 50 metres.

Q.4 Do you agree that we should allow existing masts which are greater than 50 metres in height to be increased by up to 20% of the height of the original mast? If you disagree, please explain why.

A.4 Yes.

Existing masts greater in height than 50 metres will, in nearly all cases, already have been the subject of a detailed planning assessment and consent. They should, therefore, be appropriately and sensitively located having been the subject of a detailed planning application. Such masts are relatively scarce throughout Argyll and Bute and are likely to be located in remote upland areas and at considerable distance from centres of population. Whilst, by the very nature of their isolation, they are likely to occupy areas of significant landscape sensitivity, it is considered that any relatively modest increase in the height of such masts is unlikely to materially worsen existing landscape impact, particularly when viewed at considerable distance.

The proposal to slightly increase existing PDR for masts of this category, from 15% to 20%, is considered to be sensible and proportionate.

Q.5 Do you agree that we should allow an increase in the width of existing masts by up to 2 metres or, if greater, one half of the width of the original mast (i.e. the increase is on the widest part of the mast and including any equipment)? If you disagree, please explain why

A.5 Yes.

Whilst this proposal would significantly increase existing PDR, particularly for smaller, thinner existing mast types, in practice the existing provisions are rarely used to facilitate an increase in the width of the mast itself. Normally, these existing PDR are used to accommodate additional antennae, dishes and other mast-mounted telecommunications apparatus. Such 'bolt-on' additional apparatus tends to have a relatively limited visual impact. Nevertheless, the proposal to introduce new 'prior notification/prior approval' procedures for such development within 'designated areas' is welcomed.

Q.6 Do you agree that any height or width increase within a designated area should be subject to prior notification/prior approval in order that visual impacts can be assessed? If you disagree, please explain why

A.6 Yes.

The introduction of a requirement for 'prior notification/prior approval' within designated areas is to be welcomed.

Replacement Masts:

Q.7 Do you agree that we should increase the maximum distance that replacement masts may be from their original location from 6m to 10m, outside designated areas? If you disagree, please explain why.

A.7 Yes

This would seem a proportionate and pragmatic compromise. The proposals would increase PDR in those less sensitive areas whilst retaining the existing arrangements within the more sensitive 'designated areas'. In practice, the precise location of existing ground-based masts is rarely so critical that the proposed limited increase to this category of PDR need raise any specific concerns.

Q.8 Do you agree that in the case of replacement masts, in designated areas the current 6m distance from the original location should be retained? If you disagree, please explain why.

A.8 Yes. The retention of existing PDR limits within 'designated areas' is to be welcomed.

Mitigating Potential Impacts on Safeguarded Sites on PDR for Masts:

Q.9 We propose to retain the current approach. Do you agree? If you disagree, please explain why

A.9 Yes.

It is considered that retention of existing PRD requirements in relation to safeguarded sites would be appropriate to ensure the safe and efficient operation around aerodromes and technical sites.

Antenna Systems (Not including 'small cell' systems):

Q.10 Do you agree that the PDR for antenna systems on buildings outside designated areas should be as set out in Table 3 below? If you disagree with an increase, please explain why.

A.10 Yes.

It can be seen that the proposed changes are very minor. The proposed PDR would continue to apply solely to development outwith the 'designated areas' (other than in specific 'emergency' situations as existing and notwithstanding additional Government proposals discussed below). No changes are proposed to existing PDR for dish antennae and other antennae on a building and above a height of 15 metres.

It is not considered that the proposed minor increases to these specific types of development on buildings and below a height of 15 metres will likely have any materially harmful consequences above any beyond existing PDR limits.

Q.11 Do you agree with extending PDR for antenna systems on buildings to all or some of the designated areas to which restrictions on PDR for such infrastructure currently applies? Please indicate which designations should have extended PDR and why, or, if you disagree, please explain why.

A.11 Yes.

Of the various 'designated areas' only a few of them apply specifically to buildings and townscape. Given the relatively limited development proposed would be restricted to small scale development attached to existing buildings and with greater restrictions to such development above a height of 15 metres, it is considered that it may be appropriate to extend such PDR to those 'designated areas' which may not primarily seek to afford protection to the built environment. It is considered that the introduction of these specific PDR within Historic Gardens and Designed Landscapes, within Historic Battlefields, within Sites of Special Scientific Interest, within National Parks, within National Scenic Areas and within European Sites might be acceptable. These specific designations are generally defined by their landscape character and by their special historic and/or natural heritage qualities. Some of these designations are unlikely to contain buildings at all and, where they do, any such buildings of particular importance are likely to be listed and/or located within conservation areas. It is, however, considered appropriate to suggest that PDR within these specific 'designated areas' should be subject to the 'prior notification/prior approval' procedure outlined earlier. This would enable the planning authority to exercise an appropriate level of control and to react to site-specific issues should they arise.

On the other hand, Conservation Areas, Category A Listed Buildings and some (though not all) World Heritage Sites are primarily concerned with their special architectural, historic or cultural quality. It is considered that the introduction of PDR for these types of development within these three specific 'designated areas' should be resisted due to the real potential for such development to materially harm the very qualities for which they have been so designated in the first place. This would not however prevent a developer for seeking to secure consent for such works through

the submission of an appropriate planning application.

Q.12 What controls should apply in designated areas for antenna systems on buildings and should there be any differentiation between area type (e.g. size and number limits, prior notification/ prior approval or greater restrictions in designations such as conservation areas and world heritage sites, to avoid any detrimental impact on the built environment in terms of any potential visual clutter etc.)?

A.12 It is recommended that development of this type relating to Conservation Areas, Category A Listed Buildings and World Heritage Sites should not benefit from PDR.

It is recommended that development of this type located within all other designated areas be subject to a 'prior notification/prior approval' procedure which would allow the planning authority opportunity to exercise an appropriate level of control having regard to the specific nature and circumstances of each proposal.

Small Cell Systems:

Q.13 Do you agree that we should extend PDR to small cell systems on dwellinghouses (rather than just for small antennas)? If you disagree, please explain why.

A.13 Yes

The changes for planning authorities to consider here are relatively small. The existing and largely unrestricted PDR would remain the same except to the extent that 'small cell systems' can have an increased visual presence due to their inclusion of "any apparatus which is ancillary to that antenna" (as defined within existing PDR legislation). Whilst, in practice, this ancillary apparatus can be small, it is worrying that there appears to be no clear definition of the term and no restriction on size limits etc. This could have a materially harmful impact for sites within conservation areas and over and above existing PDR.

There is some comfort however in the fact that, for residential buildings (and curtilages) within conservation areas, the proposed PDR would not allow such installations which front a road. However, no such limitation exists for installations on non-residential buildings in conservation areas.

Q.14 What limitations and restrictions should apply to small cell systems on dwellinghouses (e.g. smaller units, fewer in number than small antennas under PDR)? Please explain your answer.

A. 14 The existing PRD limitations for small antennas on dwellinghouses are considered to be appropriate to extend to small cell systems.

Q15 In conservation areas, what limits or requirements should apply to small cell systems on dwellinghouses and other buildings (e.g. prior notification/ prior approval to assess the visual impacts or smaller/lower limits, different provisions for dwellinghouses compared to other buildings)? Please explain your answer.

A.15 It is suggested that proposed PDR on non-residential buildings in conservation areas is amended to include the limitation that no such installations should front a road. Clarity should also be provided on the definition of “any apparatus which is ancillary to that antenna”, to include maximum size/volume limits. Given the uncertainty regarding the likely up-take and visual impact of such installations, it is considered that such installations within conservation areas should be subject to the ‘prior notification/prior approval’ procedure in order to allow planning authorities an appropriate degree of control over the qualifying interests of conservation areas and the people who inhabit them.

Article 57 of EU Directive 2018/1972

N.B. This relates to existing European legislation encompassed within the European Electronic Communications Code (EECC), and establishes a uniform system of regulation for the telecommunication industry.

Article 57 concerns itself with the deployment and operation of small-area wireless access points and sets out the principle that whilst authorities shall not unduly restrict such deployment, they may, under certain circumstances and subject to various conditions, require permits for the deployment of small-area wireless access points on buildings or sites of architectural, historical or natural value.

The Scottish Government considers that the proposed changes to PDR are capable of meeting the terms of this Directive.

Q.16 Do you agree that extending PDR for small cell systems as proposed and the proposed changes to PDR for new ground based cabinets in designated areas would meet the requirements of Article 57 of EU Directive 2018/1972? If you disagree, please explain why.

A.16 Yes.

The Council is not aware of any grounds to suggest that the proposed changes to PDR for new ground based cabinets in designated areas would contravene the requirements of Article 57 of EU Directive 2018/1972.

Q.17 Are there any other potential amendments, comments or observations you wish to make in relation to potential changes to PDR that you consider necessary to be compliant with the requirements of Article 57 of EU Directive 2018/1972?

A.17 No.

Equipment Housing Cabinets (Ground Based):

Q.18 Do you agree that we should extend existing PDR in designated areas to allow for new equipment housing up to 2.5 cubic metres volume? If you disagree, please explain why.

A.18 Yes

The maximum volume for new cabinets in these existing limited circumstances is 0.9 cubic metres for new ground-based equipment cabinets and no larger than the existing ones for replacement cabinets. Therefore the proposed changes, whilst remaining limited to these restricted circumstances, introduce a considerably larger maximum volume than currently exists.

It is considered that this could have a materially harmful impact to the character and quality of the 'designated areas' and it appears that the Scottish Government acknowledge this within their consultation with the intent to include a 'prior notification/prior approval' procedure for development.

Q.19 Should this be subject to prior notification/prior approval on the siting and appearance to mitigate visual impacts? If you disagree, please explain why.

A.19 Yes

Q.20 If this were to be introduced do you agree that we should differentiate between types of designated areas by, for example, having smaller size limits in conservation areas than in National Parks? If you disagree, please explain why and give your view on what limits should apply in which areas.

A.20 No.

It is suggested that if an appropriate 'prior notification/prior approval' protocol is introduced across all 'designated areas' this should enable the planning authority to appropriately respond to and, where necessary, control development within such areas, having regard to the specifics of each proposal on a case by case basis.

Equipment Housing Cabinets on Buildings:

Q.21 Do you agree that we should extend PDR for new equipment housing on buildings in designated areas, with a limit on size of up to 2.5 cubic metres volume? If you disagree, please explain why.

A.21 Yes.

The proposed changes, whilst remaining limited to these restricted circumstances, introduce a potentially larger maximum volume than currently exists.

Q.22 Should this be subject to prior notification/ prior approval requirements on the siting and appearance to mitigate visual impacts? If you disagree, please explain why.

A.22 Yes.

It is considered that the proposed PDR extension could have a materially harmful impact to the character and quality of the 'designated areas' and it appears that the Scottish Government acknowledge this within their consultation. The provision of an appropriate 'prior notification/prior approval' procedure should enable the planning authority to appropriately respond to and, where necessary, control development

within such areas, having regard to the specifics of each proposal on a case by case basis.

Other Apparatus On Buildings:

Q.23 Do you agree that PDR for other apparatus should be extended in designated areas, beyond the basic 'like for like' alteration or replacement that currently applies? If you disagree, please explain your answer.

A.23 Yes.

Q.24 Should any new PDR for other apparatus in designated areas have specific limits and restrictions regarding size and visual intrusion? Please explain your answer, and, if you agree, please indicate what sorts of limits and restrictions should apply and why. If you disagree, please explain why.

A.24 No. See response to Q.25.

Q.25 Do you agree that PDR for new development of other apparatus on buildings in designated areas should be subject to prior notification/prior approval to mitigate visual impacts? If you disagree, please explain why.

A.25 Yes.

It is considered that the proposed PDR extension could have a materially harmful impact to the character and quality of the 'designated areas' and it appears that the Scottish Government acknowledge this within their consultation. The provision of an appropriate 'prior notification/prior approval' procedure should enable the planning authority to appropriately respond to and, where necessary, control development within such areas, having regard to the specifics of each proposal on a case by case basis.

Underground Equipment:

Q.26 In which designated areas do you consider that PDR for underground development could be extended? Please explain your answer, particularly with regard to those designated areas where PDR for underground development could not be extended.

A.26 It is considered that PDR for underground development could potentially be extended to all 'designated areas', subject to requirements set out in response to Q.27.

It is noted that where equipment is installed within the road corridor it must comply with the NRSWA 1991 and be recorded on the Scottish Road Works Register.

Q.27 In those areas where PDR for underground development could be extended, what limitations, restrictions or requirements should apply (e.g. prior notification/ prior approval, a requirement for an archaeological assessment or specific limitations)? Please explain your answer.

A.27 It is considered that the proposed PDR extension could have a materially harmful impact to the character and quality of the 'designated areas' and it appears that the Scottish Government acknowledge this within their consultation. The provision of an appropriate 'prior notification/prior approval' procedure should enable the planning authority to appropriately respond to and, where necessary, control development within such areas, having regard to the specifics of each proposal on a case by case basis.

General Comments:

Q.28 Do you have any further comments to make which are specifically related to the potential changes to PDR for Digital Communications Infrastructure which have not been addressed in the questions above?

A.28 Whilst no data has been provided to indicate exactly how the proposals will affect the volume of submissions in relation to full planning permission, 'prior notification/prior approval', and 28 day prior notification. It is however highlighted that, if the proposals are to be successful in delivering the Scottish Government's objectives, it is likely that this will result in a reduction in submissions for full planning permission, and an increase in development subject to 'prior notification/prior approval'. It is the expectation of the Council that this is likely to give rise to some reduction in planning fee income however, based upon current demand for telecommunications development, it is expected that this will be negligible. The Council would however take this opportunity to remind the Scottish Government of its stated aspiration that Development Management be delivered through full cost recovery – in this respect it remains essential that the Scottish Government not only deliver on its commitment to review statutory planning fees to ensure that these are more closely aligned to the cost of service delivery, but that they should also seek within that review to ensure that fees associated with 'prior notification/prior approval' are also aligned with the cost to planning authorities of processing these submissions.

The Council would also raise some concern that the removal of development from the requirement for planning permission also has the prospect to disenfranchise parties who may otherwise have sought to involve themselves in the planning process. Whilst it is recognised that the 'prior notification/prior approval' process applied to new masts does include neighbour notification of immediately adjacent property there is some concern that this is not sufficient to bring the development to the attention of all parties prospectively affected. The Council has previously received complaint about lack of awareness of mast development undertaken through PDR with 'prior notification/prior approval', particularly from property owners who overlook the development but are outwith the notifiable distance. In order to address this concern it is suggested that the notification requirements under Class 7Z of the GPDO are amended to either i) include requirement for publication of an advertisement in a local paper inviting comment; ii) extend the definition of 'neighbouring land' for development under Class 67 to include property within a wider radius; or iii) implement both of these measures.

Concern has also been raised that where development involves ground based cabinets that this should include requirement to consult with the Roads Authority to ensure footways are not restricted to such an extent that they affect disabled access. Footway widths of 1.8m minimum must be maintained unless otherwise agreed by the

Roads Authority. Visibility at access/junctions must not be obstructed. Signs, traffic lights and so on must not be obstructed. Where equipment is installed in buildings it is also highlighted that the developer should consider requirement and suitability of access for future maintenance.

Part 5 Agricultural Developments

Larger Agricultural Buildings:

Q.29 Do you agree with our proposal to increase the maximum ground area of agricultural buildings that may be constructed under class 18 PDR from 465sqm to 1,000sqm? If you do not agree please explain why.

A.29 Yes.

It is agreed that the current 465sqm is out of step with modern farming practices, particularly those associated with larger agricultural holdings. It is however noted that in some parts of the Scotland that farming continues to be undertaken on a much smaller scale either as a result of the natural constraints of landscape/topography and/or within traditional crofting localities.

Q.30 Do you agree with our proposal to retain other existing class 18 conditions and limitations? If you do not agree please explain why.

A.30 Yes.

Q.31 Do you think that the new 1,000sqm size limit should apply in designated areas (e.g. National Parks and National Scenic Areas)? Please explain your answer.

A.31 No.

It is recommended that agricultural developments on designated croft land, and to land within highly valued landscape designations (National Scenic Areas and Local Landscape designations identified in a Local Development Plan), Conservation Area designations, and also within Greenbelt designations identified in a Local Development Plan remain restricted to a maximum of 465sqm under PDR.

Within some parts of the Scotland farming continues to be undertaken on a much smaller 'traditional' scale either as a result of the natural constraints of landscape/topography and/or within traditional crofting localities. In such circumstances buildings associated with agricultural development are already likely to be the largest built elements within complex/contained landscapes, many of which are subject to either national or local landscape designations which seeks to ensure that new development does not have a significant adverse impact upon either the landscape character or visual amenity. The Council would raise concern that the extension of PDR to buildings of 1000sqm has potential to inadvertently encourage new/extended buildings that may be significantly out scale within sensitive landscape settings and accordingly give rise to significant adverse impacts to landscape character and visual amenity, and/or significantly erode the ability of the planning authority to resist development considered to have such an adverse impact.

There are a number of rural Conservation Area designations within Argyll and Bute where PDR for significantly larger agricultural buildings could potentially impact adversely upon the character and appearance of the historic built environment, or again, erode the ability of the planning authority to resist such development.

Having regard to other proposals which seek to extend PDR to the change of use of agricultural buildings to facilitate residential occupation and commercial operations it is noted that the availability of significantly larger buildings for conversion may have potential to erode planning authority settlement strategy, in localities where rural areas around settlements are already under pressure from development, particularly Greenbelt designations.

Q.32 Do you agree with our proposal to increase the scale of extensions or alterations to agricultural (and forestry) buildings that may be carried out without requiring prior approval? If you do not agree please explain why.

A.32 No.

There is support in principle for extending PDR on the extension of both agricultural and forestry buildings; however the matters of concern expressed in the response to Q.31 would be equally applicable. This concern could be satisfactorily addressed by retaining the existing restriction of 465sqm size in relation to the extension/alteration of agricultural and forestry buildings located on designated croft land, land within a highly valued landscape designation (National Scenic Area or Local Landscape designation in a Local Development Plan), Conservation Area, or Greenbelt designation in a Local Development Plan.

It is noted that it is not proposed to extend PDR for construction of new forestry buildings; in this respect the extension of existing modest buildings originally constructed under PDR by up to 20% of their cubic capacity does not give rise to significant concern.

Q.33 Do you agree with our proposal to discourage developers from erecting new buildings for the sole purpose of converting them by limiting class 18 and 22 PDR where a residential conversion has taken place under PDR on the same farm within the preceding 10 years? If you do not agree please explain why.

A.33 Yes.

Such provision is considered to be essential to prevent 'gaming' through use of PDR to erect new agricultural buildings with the sole intent of conversion to other uses. It is requested however that the Scottish Government provide guidance on how this should be applied in practice bearing in mind that the planning authority will not have ready access to details of landownership details in the absence of these being provided by the applicant, or upon request from the Registers of Scotland (the latter option including financial and time implications for the planning authority). In this respect it would not be appropriate to assume that the extent of each farm holding and buildings associated with that operation will be readily identifiable; in particular where farm holdings have been broken up or changed ownership since submission of a previous PDR submission then basic details of landownership may not always be reconcilable

with the details of an earlier decision held on the Part 2 Register by the planning authority.

It is also questioned whether, in order to promote sustainable development, any PDR should include a test for the applicant to demonstrate that the buildings to be converted are genuinely redundant having regard to the operational circumstances of the farm holding. It is contended that any conversion of agricultural buildings which gives rise to a requirement to construct a replacement building that would otherwise not have been required is not necessarily a sustainable use of agricultural land or resources.

Conversion of Agricultural Buildings to Residential Use:

Q.34 Do you agree with the proposed new PDR for conversion of agricultural buildings to residential use, including reasonable building operations necessary to convert the building? If you do not agree please explain why.

A.34 No. The Council strongly objects to the proposals to introduce PDR for conversion of agricultural buildings to residential use. It is considered that this proposal would be an unnecessary intervention by the Scottish Government that would undermine the ability of planning authorities to deliver the good planning for a locality within the context of a plan-led planning system.

The proposals appear to be based upon a fundamentally flawed assumption that the planning process is a barrier to the realisation of new residential development in rural locations. Within the context of Argyll and Bute, the Local Development Plan settlement strategy already includes sufficient policy provision giving an initial presumption in support of the conversion or redevelopment of existing buildings to provide up to 5 dwellinghouses in the countryside (including agricultural buildings) where this can be undertaken in alignment with other LDP policy provisions which seek to protect identified constraints, and apply minimum design/infrastructure standards which seek to ensure that the proposal represents sustainable development – i.e. is the right development in the right place. Argyll and Bute Council's approval rate for planning applications is high (approx. 97%) and that applications for 'local' scale development are dealt with on average on a timescale that is in alignment with the national average. Whilst there is no readily available data relating specifically to the conversion/redevelopment of agricultural buildings to residential it is highlighted that from 2017/18 to present, Argyll and Bute Council has approved 381 planning applications for new residential development outwith identified settlement areas; these permissions if all implemented would provide a cumulative total of 589 new dwelling units in countryside locations. If the Scottish Government have underlying concerns that this positive approach to rural development is not reflective of the current national position then it is respectfully highlighted that these aspirations could be delivered through express support for reuse of redundant farm buildings within the Scottish Planning Policy to drive delivery through a plan-led policy approach development as opposed to the unnecessary complexity of creating of a whole new alternative planning process for reuse of agricultural building.

The Council does not consider that removal of conversion of agricultural buildings to dwellings from the requirement for full planning permission would deliver any tangible benefit in respect of time currently taken for determination of planning applications –

the wide scope of matters required to be taken into consideration will necessitate consultation and, presumably neighbour notification, a physical site inspection and assessment by an appropriately qualified planning professional in order to reach a view on the acceptability or otherwise of the proposals. A 'prior notification/prior approval' procedure could however place the Council in the invidious position of requiring to afford a higher priority to assessing these developments than planning applications for other development if deemed planning permission/prior approval would automatically be granted as a result of a failure of the planning authority to provide a response within a much shorter statutory timescale. Within the context of Argyll and Bute it is highlighted that there is a very limited professional resource of only 12 fte planning officers currently employed to assess 'local' development within the second largest local authority land mass in Scotland. The extensive travel times and distances within the local authority areas mean that it is neither cost or time effective for staff to travel more frequently to remoter locations (both on the mainland and islands) solely to assess individual proposals. The 2 month statutory determination period that applies to planning applications does however provide sufficient scope that allows site visit work for remoter localities to accumulate and as such allows for the cost of travel and staff time, more often than not, to be aggregated. This particular PDR proposal will primarily relate to development proposals within remoter, harder to access rural and island locations therefore any requirement to assess these within a much shorter time period will provide less opportunity to aggregate site work for remote locations and would have implications either for deployment of professional resource and/or performance in the handling of other planning applications; and/or will increase the financial and resource cost to the Council in processing rural submissions.

Given the extensive scope of matters to be considered by planning authorities in the proposed PDR there appears to be little difference between the level of information that applicants would require to provide compared to that for a planning permission for the same development. It would appear that the only cost saving to prospective developers would be the statutory fee for making a submission given the expectation that fees for 'prior notification/prior approval' would be less than a planning application; however the level of information required to undertake a competent assessment, and cost incurred in preparing such details for submission, will likely remain aligned to the preparation of a planning application.

Furthermore, it is considered that the introduction of a new and complex 'prior notification/prior approval' procedure in relation to the conversion of agricultural buildings will not provide developers with additional certainty but will result in an additional and unnecessary layer of complexity as both applicants and planning authorities will require to undertake an initial assessment as to whether the proposal wholly meets the multiple technical requirements to qualify for PDR. Where submissions do not wholly meet PDR requirements then there will be delay as submissions are rejected and applicants required to resubmit either amended proposals or an application for full planning permission as necessary. The increased uncertainty is also likely to give rise to disenfranchisement/confusion/complaint from interested third parties who may not have opportunity to input to decisions as they would through a planning application. Additional planning enforcement liability may also be expected through unintentional breaches of planning control, particular where developer's plans are later modified to increase floor areas and/or to comply with

Building Warrant requirements. It is contended that the proposals run contrary to the intention that the Scottish Government to streamline and simplify the planning process when they embarked on their Planning review programme.

Q.35 Do you agree that the proposed new PDR should be subject to a prior notification/prior approval process in respect of specified matters? If you do not agree please explain why.

A.35 No. The proposed matters identified for consideration and approval by the planning authority will require a professional assessment of the suitability of the development that is in practice little different to the assessment of a planning application for the same development. In practice this PDR promotes development of a very sensitive development type alongside continuing agricultural practices which have potential to give rise to significant impacts upon residential amenity with considerable future consequence to both the occupants and farm operation. It is considered that the suitability of buildings for residential conversion will vary considerably from farm to farm and as such it is somewhat reckless to impose PDR based solely on an assumption that the presence of built development gives rise to prospect of residential use. The requirement for a planning authority to consider such matters under a prior notification/prior approval procedure is not desirable for a number of reasons including:

- Resources – Applicants shall require to expend similar resource to prepare the submission as they would an application for full planning permission. Planning authorities will require to expend the same (or similar) level of resource to properly assess the submission – the introduction of a lower fee for ‘prior notification/prior approval’ simply increases the cost of handling submissions for rural development onto the planning authority with limited benefit to a developer who will realise substantial increase to the value of their property in the event of a successful outcome. Any increase in planning enforcement arising from the unnecessary complexity of the PDR process would also give rise to increased resource implications for planning authorities. This aspect runs contrary to the Scottish Government’s stated intent that Development Management should operate on the basis of full cost recovery.
- Outcome – the introduction of a national PDR presumption in favour of converting agricultural buildings to 5 dwellings per farm unit is deeply flawed and substantially undermines the ability of planning authorities to properly manage new development and its impacts as part of a plan led system.

In the event that the Scottish Government were minded to introduce this new class of PDR contrary to the wishes of Argyll and Bute Council then it is agreed that the suitability of agricultural buildings for conversion to residential accommodation does require an appropriate procedure to allow prior assessment of a number of complex matters in order to establish the suitability of each proposal on a case by case basis. Whilst this position only seeks to underline the lack of practicality in removing the requirement for full planning permission, an appropriate ‘prior notification/prior approval’ procedure would be essential if the Scottish Government is minded to pursue this new PDR regardless of the concerns raised.

Q.36 Do you agree with the proposed range of matters that would be the subject of a prior notification/prior approval process? If you do not agree please explain why.

A.36 No.

The consultation fails to recognise that many rural locations are served by private foul drainage and water supply arrangements; any new PDR development should require to be subject to assessment of the suitability of water supply and foul drainage arrangements to serve the new development. Development undertaken without such assessment may either prove to be unsuited for human habitation, or could potentially impact adversely on other existing users of private water supplies/foul drainage arrangements.

It should also be recognised that range of matters to be considered give rise to potential for development beyond that simply required for conversion of the buildings – this may in some cases include development that is remote from the immediate footprint or ‘curtilage’ to be defined - e.g. access improvements, or the installation (or augmentation of an existing) private foul drainage and/or water supply system may also give rise to works which are considered to be development in their own right. It is unclear whether the PDR for conversion of buildings would also extend to such other operations necessary to deliver an acceptable residential conversion.

The consultation is also silent on the manner in which the planning authority would be expected to consider such matters – would this be in relation solely to the parameters of Scottish Government guidance provided in relation to the application of the PDR and ‘prior notification/prior approval’, or would the process allow the planning authority to consider relevant LDP policy as it relates to those matters?

The Council’s Roads and Infrastructure Service has also suggested that the requirement to consider transport and highways should include a statutory requirement for consultation with the relevant roads authority to determine the impact of any potential; intensification of use (size and quantity of vehicles) upon the road network and road safety. It has also been highlighted that parking requirements should be included in the matters under consideration.

Q.37 Do you agree with the proposed maximum number (5) and size (150sqm) of units that may be developed under this PDR? If you do not agree please explain why.

A.37 No.

Setting the maximum number of units at five and the absence of any test to establish whether the buildings are redundant within the working context of the farm unit simply sets an aspirational maximum target/land value for prospective developers to attain regardless of how suitable this might be for the specific circumstances of the agricultural buildings that are to be converted, or the continuing operational requirements of the farm holding. The proposal simply encourages agricultural land holders to consider the conversion of buildings that may otherwise remain suitable for ongoing agricultural use and as such promotes unnecessary development of productive agricultural land where replacement agricultural buildings are required. Had

the Scottish Government sought to impose PDR for conversion to a single dwelling unit with the intent being to support an underpin a right to new accommodation then it is accepted that this could potentially have been directly aligned with support in principle for succession planning within farm management.

The limitation of new dwellings to a maximum floor area of 150sqm does not in itself provide any guarantee that this will provide affordability or address the specific housing need requirements of a locality. It is considered likely that the floor space limitation is likely to give rise to issues where development benefiting from deemed consent under PDR is subsequently amended during implementation to include a larger floor area and as such a breach of planning control. It is also unclear whether a dwelling that has been developed under PDR provision would in future benefit from 'householder' PDR that would allow the subsequent extension/alteration of the property or provision of curtilage structures; if it would then that would only undermine any intent that the Scottish Government may have of delivering affordability through floorspace restriction, or to seek to secure visual character through limitation of external works to those necessary to facilitate conversion. In the event that 'householder' PDR did not apply to such properties then this would provide an additional complexity for both property owners and planning authorities in managing future development/enforcement.

Q.38 Do you agree with the proposed protection for listed buildings and scheduled monuments? If you do not agree please explain why.

A.38 Yes. However it is considered that, if the PDR is to be introduced, that the limitations are extended to include:

- Unlisted buildings within Conservation Areas where a residential conversion may also have adverse impact upon the character or appearance of the historic built environment;
- Greenbelt where residential conversion could significantly undermine a plan led approach to the management of pressured land on the edge of urban areas;
- Registered crofts where, generally, holdings tend to be small and the PDR may unintentionally support the break-up and unsustainable development of croft land assets.

Q.39 Do you agree with the proposed measures to discourage developers from erecting new buildings for the sole purpose of converting them? If you do not agree please explain why.

A.39 Yes.

Such provision is considered to be essential to prevent 'gaming' through use of PDR to erect new agricultural buildings with the sole intent of conversion to other uses. It is requested however that the Scottish Government provide guidance on how this should be applied in practice bearing in mind that the planning authority will not have ready access to details of landownership details in the absence of these being provided by the applicant, or upon request from the Registers of Scotland (the latter option including financial and time implications for the planning authority). In this respect it would not be appropriate to assume that the extent of each farm holding and buildings

associated with that operation will be readily identifiable; in particular where farm holdings have been broken up or changed ownership since submission of a previous PDR submission then basic details of landownership may not always be reconcilable with the details of an earlier decision held on the Part 2 Register by the planning authority.

Clarification is also required on whether PDR would apply to buildings last used for the purpose of agriculture (i.e. their lawful established use) but which have since been separated in ownership and use from a continuing agricultural operation (i.e. vacant and no longer part of an associated farm holding).

It is also questioned whether, in order to promote sustainable development, any PDR should include a test for the applicant to demonstrate that the buildings to be converted are genuinely redundant having regard to the operational circumstances of the farm holding. It is contended that any conversion of agricultural buildings which gives rise to a requirement to construct a replacement building that would otherwise not have been required is not necessarily a sustainable use of agricultural land or resources.

Conversion of Agricultural Buildings to Flexible Commercial Use:

Q.40 Do you agree with the proposed new PDR for conversion of agricultural buildings to flexible commercial use, including reasonable building operations necessary to convert the building? If you do not agree please explain why.

A.40 No. The Council strongly objects to the proposals to introduce PDR for conversion of agricultural buildings to commercial use. It is considered that this proposal would be an unnecessary intervention by the Scottish Government that would undermine the ability of planning authorities to deliver the good planning for a locality within the context of a plan-led planning system.

The proposal raises similar issues to those identified in the Council's response to Q.34 which relates to PDR for residential conversions. Again it is contended that the requirement for planning permission does not in itself create a fundamental barrier, and within the context of Argyll and Bute there is again policy provision within the Local Development Plan that is supportive of small scale business and industry development, and retail development where this can be undertaken are in alignment with other LDP policy provisions which seek to protect identified constraints, and apply minimum design/infrastructure standards which seek to ensure that the proposal represents sustainable development – i.e. is the right development in the right place. Argyll and Bute and Bute Council's approval rate for planning applications is high (approx. 97%) and that applications for 'local' scale development are dealt with on average on a timescale that is in alignment with the national average.

The provision of PDR to conversions under 150sqm without any form of prior notification/approval is based upon an overly simplistic assumption that commercial activity may be similar/lesser in nature/impacts to that of agricultural activity. This however very much depends on the existing level of agricultural activity and the individual circumstances of the farm unit where the conversion will take place. This does not take into account any intensification in the use of access or services, or impact upon the character of amenity of a locale, or indeed any direct impact that may

arise in respect of the amenity of unrelated properties within the farm grouping and/or immediate locality of the development from the new commercial activity.

Where 'prior notification/prior approval' is required, the Council does not consider that removal of conversion of agricultural buildings to dwellings from the requirement for full planning permission would deliver any tangible benefit in respect of time taken for determination – the wide scope of matters required to be taken into consideration will necessitate consultation and, presumably neighbour notification, a physical site inspection and assessment by an appropriately qualified planning professional in order to reach a view on the acceptability or otherwise of the proposals. A 'prior notification/prior approval' procedure could however place the Council in the invidious position of requiring to afford a higher priority to assessing these developments than planning applications for other development if deemed planning permission/prior approval would be granted as a result of a failure to provide a response within a much shorter timescale. Within the context of Argyll and Bute it is highlighted that there is a very limited professional resource of only 12 full time planning officers to assess 'local' development within the second largest local authority land mass in Scotland. The extensive travel times and distances within the local authority areas mean that it is not cost effective or time effective for staff to travel frequently to remoter islands and mainland locations solely to assess individual proposals. The 2 month statutory determination period that applies to planning applications does however provide some scope to allow site visit work for remoter localities to accumulate and as such allows for the cost of travel and staff time to, generally, be aggregated. This particular PDR proposal will primarily relate to development proposals within remoter, harder to access rural locations therefore any requirement to assess these within a much shorter time period will provide less opportunity to aggregate site work for remote locations and would have implications either for deployment of professional resource and performance in the handling of other planning applications; or will increase the financial and resource cost to the Council in processing rural submissions.

Given the extensive scope of matters to be considered by planning authorities in the proposed PDR there appears to be little difference between the level of information that applicants would require to provide compared to that for a planning permission for the same development. It would appear that the only cost saving to prospective developers would be the statutory fee for making a submission given the expectation that fees for 'prior notification/prior approval' would be less than a planning application; however the level of information required to undertake a competent assessment, and cost incurred in preparing such details for submission, will likely remain aligned to the preparation of a planning application.

Furthermore, it is considered that the introduction of a new and complex 'prior notification/prior approval' procedure in relation to the conversion of agricultural buildings will not provide developers with additional certainty but will result in an additional and unnecessary layer of complexity as both applicants and planning authorities will require to undertake an initial assessment as to whether the proposal wholly meets the multiple requirements to qualify for PDR. Where submissions do not meet PDR requirements then there will be delay as applications are rejected and applicants required to resubmit either amended proposals or an application for full planning permission as necessary. The increased uncertainty is also likely to give rise to planning enforcement through unintentional breaches of planning control, particular

where developer's plans are later modified to increase floor areas and/or to comply with Building Warrant requirements. It is contended that the proposals run contrary to any intention that the Scottish Government may have had to streamline and simplify the planning process when they embarked on their Planning review programme.

Q.41 Do you agree with the proposed cumulative maximum floorspace (500sqm) that may change use? If you do not agree please explain why.

A.41 No. Within the context of Argyll and Bute 'small scale' commercial/retail development is defined within the Local Development Plan as being of a maximum 200sqm floor space. Development of 500sqm is considered to be 'medium scale' and, having regard to the Council's settlement strategy, would be directed in the first instance to an appropriate settlement area where development could take advantage of existing access and service infrastructure, support employment of an existing population and minimise travel requirements associated with staff and customer vehicle movements wherever possible. The Local Development Plan is flexible however and is capable of offering support to medium and large scale development where this is underpinned by a locational/operational requirement (this could include farm diversification proposals), with additional flexibility inbuilt to locations identified in the LDP as being 'economically fragile'.

The provision of a unilateral presumption in favour of 500sqm PDR for conversion of agricultural buildings would significantly undermine the Council's settlement strategy as set out in the LDP and is considered likely to give rise to unforeseen demands on remote rural locations where existing road, water, drainage and servicing infrastructure unsuited to the demands of more commercial activity that may increase the intensity of demand.

Q.42 Do you agree that the proposed new PDR should be subject to a prior notification/prior approval process in respect of specified matters where the cumulative floorspace changing use exceeds 150sqm? If you do not agree please explain why.

A.42 No. The proposed matters identified for consideration and approval by the planning authority will require a professional assessment of the suitability of the development that is in practice no different to the assessment of a planning application for the same development. The requirement for a planning authority to consider such matters under a prior notification/prior approval procedure is not desirable for a number of reasons including:

- Resources – Applicants shall require to expend similar resource to prepare the submission as they would an application for full planning permission. Planning authorities will require to expend the same (or similar) level of resource to properly assess the submission – the introduction of a lower fee for 'prior notification/prior approval' simply increases the cost of handling submissions for rural development onto the planning authority with limited benefit to a developer who will realise substantial increase to the value of their property in the event of a successful outcome. Any increase in planning enforcement arising from the unnecessary complexity of the PDR process would also give rise to increased resource implications for planning authorities. This aspect

runs contrary to the Scottish Government's stated intent that Development Management should operate on the basis of full cost recovery.

- Outcome – the introduction of a national PDR presumption in favour of converting agricultural buildings to 500sqm of commercial floorspace per farm unit is deeply flawed and substantially undermines the ability of planning authorities to manage new development and its impacts as part of a plan led system.
- Control over future development – the proposals identifies that the PDR would apply to a 'flexible' use falling within Classes 1, 2, 3, 4, 6 or 10. In reality the PDR is in many cases likely to be utilised by a third party rather than the operator of the agricultural holding themselves – either as a lease or subsequent sale of property. In such circumstances it is unclear from the detail in the consultation whether the new commercial operation could subsequently be altered within said 'flexible' range of uses, or once established would fall within the relevant provisions of the Town and Country Planning (Use Classes)(Scotland) Order and any PDR change of use which it might permit. Such circumstances create uncertainty not only for planning authorities but also for any future tenant/owner, and for any third parties with adjacent property that might be affected by such un(de)regulated activities as promoted in the consultation.

In the event that the Scottish Government were minded to introduce this new class of PDR contrary to the wishes of Argyll and Bute Council then it is agreed that the suitability of agricultural buildings for all conversions (including those less than 150sqm) to commercial floorspace does require an appropriate procedure to allow assessment of a number of complex matters in order to establish the suitability of each proposal on a case by case basis. Whilst this position only seeks to underline the sensibility of not introducing PDR in the first instance, an appropriate 'prior notification/prior approval' procedure would be essential if the Scottish Government is minded to pursue this new PDR regardless of the concerns raised by the Council.

Q.43 Do you agree with the proposed range of matters that would be the subject of prior notification/prior approval? If you do not agree please explain why.

A.43 No. The consultation fails to identify that many rural locations are served by private foul drainage and water supply arrangements; any new development under PDR should be subject to an assessment of the suitability of water supply and foul drainage arrangements to serve the new development. Development undertaken without such assessment may either prove to be unsuited for its intended purpose, or could potentially impact adversely on other existing users of private water supplies/foul drainage arrangements.

It should also be recognised that range of matters to be considered give rise to potential for development beyond that simply required for conversion of the buildings – this may in some cases include development that is remote from the immediate footprint or new 'planning unit' to be defined - e.g. access improvements, or the installation (or augmentation of an existing) private foul drainage and/or water supply system may also give rise to works which are considered to be development in their own right. It is unclear whether the PDR for conversion of buildings would also extend to such other operations necessary to deliver an acceptable commercial conversion.

The consultation is also silent on the manner in which the planning authority would be expected to consider such matters – would this be in relation solely to the parameters of Scottish Government guidance provided in relation to the application of the PDR and ‘prior notification/prior approval’, or would the process allow the planning authority to consider relevant LDP policy as it relates to those matters?

The Council’s Roads and Infrastructure Service has also suggested that the requirement to consider transport and highways should include a statutory requirement for consultation with the relevant roads authority to determine the impact of any potential; intensification of use (size and quantity of vehicles) upon the road network and road safety. It has also been highlighted that parking requirements for the development should also be included within the matters to be considered.

Q.44 Do you agree with the proposed protection for listed buildings and scheduled monuments? If you do not agree please explain why.

A.44 Yes. However it is considered that, if the PDR is to be introduced, that the limitations are extended to include:

- Unlisted buildings within Conservation Areas where a commercial conversion may also have adverse impact upon the character or appearance of the historic built environment;
- Greenbelt where commercial conversion could significantly undermine a planned approach to the management of pressured land on the edge of urban areas;
- Registered crofts where, generally, holdings tend to be small and the PDR may unintentionally support the break-up and unsustainable development of croft land assets.

Q.45 Do you agree with the proposed measures to discourage developers from erecting new buildings for the sole purpose of converting them? If you do not agree please explain why.

A.45 Yes.

Such provision is considered to be essential to prevent ‘gaming’ through use of PDR to erect new agricultural buildings with the sole intent of conversion to other uses. It is requested however that the Scottish Government provide guidance on how this should be applied in practice bearing in mind that the planning authority will not have ready access to details of landownership details in the absence of these being provided by the applicant, or upon request from the Registers of Scotland (the latter option including financial and time implications for the planning authority). In this respect it would not be appropriate to assume that the extent of each farm holding and buildings associated with that operation will be readily identifiable; in particular where farm holdings have been broken up or changed ownership since submission of a previous PDR submission then basic details of landownership may not always be reconcilable with the details of an earlier decision held on the Part 2 Register by the planning authority.

Clarification is also required on whether PDR would apply to buildings last used for the purpose of agriculture (i.e. their lawful established use) but which have since been separated in ownership and use from a continuing agricultural operation (i.e. vacant and no longer part of an associated farm holding).

It is also questioned whether, in order to promote sustainable development, any PDR should include a test for the applicant to demonstrate that the buildings to be converted are genuinely redundant having regard to the operational circumstances of the farm holding. It is contended that any conversion of agricultural buildings which gives rise to a requirement to construct a replacement building that would otherwise not have been required is not necessarily a sustainable use of agricultural land or resources.

Conversion of Forestry Buildings:

Q.46 Do you agree that we should take forward separate PDRs for the conversion of forestry buildings to residential and commercial uses? If you do not agree please explain why.

A.46 Yes.

Q.47 Do you agree that the same conditions and limitations proposed in respect of the PDR for the conversion of agricultural buildings should apply to any separate PDR for the conversion of forestry buildings, insofar as relevant? If you do not agree please explain why.

A.47 No. Whilst the Council recognises that buildings utilised for agricultural and forestry uses may share many commonalities it does consider that it would be inappropriate to assume that the circumstances of forestry buildings and their suitability for conversion are necessarily similar to agricultural buildings. Within the context of Argyll and Bute agricultural buildings will, in the main, relate to existing nodes of development that have connections to infrastructure given the likelihood that there will be a residential element associated within the management of the agricultural operation. Forestry buildings are however, in many cases, located in remote and isolated locations to facilitate basic welfare facilities and for storage/maintenance of equipment and machinery required in relation to forestry operations. The nature of forestry does not tend to include associated residential occupation and accordingly such buildings are less likely to form parts of established development nodes that can be built upon without significant infrastructure investment being required.

Polytunnels:

Q.48 Do you agree with our proposed approach to providing greater clarity to the planning status of polytunnels? If you do not agree please explain why.

A.48 Yes.

The provision of additional guidance and clarity by the Scottish Government on the application of PDR and planning fees as they relate to polytunnels is to be welcomed.

Part 6 Peatland Restoration

The General Approach to PDR for Peatland Restoration:

Q.49 Do you agree with the general approach to PDR for peatland restoration, (i.e. wide ranging PDR given the likely oversight via Peatland Action and via the Peatland Code)? If you do not agree please explain why.

A.49 Yes.

Defining Permitted Development Rights for Peatland Restoration:

Q.50 Do you agree with the approach to PDR for peatland restoration that relies on a general understanding of what will constitute peatland? If you do not agree please explain why.

A.50 Yes.

*Q.51 Do you agree with this approach to a blanket PDR for 'peatland restoration' ?
If you do not agree please explain why.*

A.51 No.

Whilst it is agreed that oversight via Peatland Action and the Peatland Code is an appropriate mechanism to avoid duplication of this work by the planning authority it is highlighted that the introduction of a light touch consultation process (similar to that undertaken in relation to new forestry planting proposals) would provide an opportunity for the planning authority to highlight any relevant constraints that should be considered in the authorisation of the project (via Peatland Action/Peatland Code) this may include highlighting existing planning permissions that may be impacted. A prior notification process would also ensure that planning authorities are aware of works when they do commence and would assist them in efficiently addressing any enforcement complaints/enquiries that may arise as a result.

Conditions and Restrictions on PDR for Peatland Restoration:

Designated Areas

Q.52 Do you agree that as peatland restoration projects will likely be subject to oversight from Peatland Action, or validation under the Peatland Code, there is no need for additional controls on related PDR in designated areas? If you do not agree please explain why.

A.52 Yes. Proposals for a streamlined approach are welcomed.

Access Tracks (Private Ways)

Q.53 Do you think there should be PDR for new temporary access tracks (private ways) which may be necessary to carry out peatland restoration projects? Please explain your answer.

A.53 No.

The concern with any form of PDR for access tracks necessary for the purposes of peat restoration is that unless operators are kept to a strict code these tracks could do a lot of harm. Floating tracks are rarely straight forward and temporary tracks have potential to be used for a various other purposes in addition to peatland restoration.

If it is decided to extend PDR for access tracks then it is suggested that such matters should relate to temporary tracks and require to be detailed within the project proposals which are subject to scrutiny by Peatland Action / to comply with the Peatland Code. Such details should include the justification for the installation of the track, a statement identifying the design considerations taken into account in identifying the route and construction detail, and details of its proposed removal and restoration. It is noted that a consultation procedure (as noted at Q.51 above) would provide a means of informing the planning authority of such proposed activity. Alternatively/additionally, it may be appropriate to consider whether restrictions on PDR for access tracks should apply within National Scenic Areas and Wildland designations.

Q.54 What sort of time limits and restoration requirements do you consider should apply to any PDR for temporary access tracks (private ways) for peatland restoration projects? Please explain your answer.

A.54 If PDR for access tracks is to be provided as a means of supporting a specific restoration project/activity then it should include provision for removal of the track and restoration of the land once it is no longer required for that specific purpose.

Q.55 If possible, should any PDR for temporary access tracks (private ways) for peatland restoration only apply to projects which have been approved for funds provided by the Scottish Government, through Peatland Action or other bodies? Please explain your answer.

A.55 Yes. If PDR for access tracks is to be introduced then it is agreed that this should relate to projects where there is opportunity to consider that there is a robust justification for the provision of any new track, and that provides appropriate consideration on the impacts that would arise. If this cannot be secured simply through the available mechanisms for privately funded projects then it would be appropriate to restrict this activity.

Other Conditions and Restrictions

Q56. Do you agree that the peatland restoration PDR should allow for the transfer of peat within the restoration site and for peat to be brought into the restoration site? If you do not agree please explain why.

A.56 Yes.

Q57. Do you agree that the peatland restoration PDR should not grant permission for the extraction of peat outside the restoration site or for removal of peat from the restoration site? If you do not agree please explain why.

A.57 Yes.

Q.58 Are there any other forms of development which could be granted planning permission by the PDR for peatland restoration as proposed, which should be restricted or controlled? Please explain your answer, setting out what sorts of development you consider should be restricted and why.

A.58 No.

Q.59 Do you have any other views or points to make about the proposed PDR for peatland restoration?

A.59 No.

Part 7 Development Related to Active Travel

Houses:

Q.60 Do you agree with the proposal to allow the erection of a cycle store in the front or side garden of a house up to a maximum size of 1.2 m height, 2 m width and 1.5 m depth? If you disagree please explain why.

A.60 Yes. It is considered that this would be acceptable outwith Conservation Areas.

Q.61 Do you agree with the proposal to permit cycle stores up to 1.2 metres in height, 2 metres in width and 1 metre in depth in the front or side garden of a house in a conservation area?. If you disagree please explain why.

A.61 No.

Conservation Areas all have varying characters. While many houses and flats would have the capacity to absorb this type of development without detriment to the character and appearance of the conservation area there may be instances where this would not be possible. Conservation areas where the houses have small front gardens and / or open frontages would be particularly sensitive. Small terraced houses within conservation areas may also be sensitive. Notwithstanding the concerns relating to the principle of these structures in front and side gardens, there are also concerns about limiting the material to timber. Timber will not be an appropriate material for all conservation area streetscapes.

Q.62 Should such an extension to PDR should be subject to a restriction on materials? Please explain your answer

A.62 No. It would not be appropriate to impose a restriction on materials outwith conservation areas. If PDR for front garden structures within conservation areas it is

noted that the use of an appropriate materials, in many cases, be a significant factor on whether or not the structure has an adverse impact upon character or appearance of the historic built environment. As noted in Q.61 above however, conservation areas have varying characteristics and require the impact of development to be assessed on a case by case basis. Any limited palette of materials specified through PDR could not necessarily be applied universally across all conservation areas in Scotland without adverse impact arising.

Q.63 Do you agree with the proposal to increase the floorspace of storage sheds allowed in the rear garden of houses in conservation areas to eight square metres? If you do not agree please explain why.

A.63 Yes.

Flats:

Q.64 Do you agree with the introduction of PDR for the erection of a cycle store in the private garden area of a flat, including in a conservation area? If you disagree please explain why.

A.64 Yes, provided that the structure is located within a rear garden area.

Q.65 Do you agree with the proposal to allow cycle stores sufficient to accommodate up to two bikes per flat to the rear of larger blocks of flats, including in conservation areas? If you disagree please explain why.

A.65 Yes.

Offices, Commercial and Industrial Buildings (Classes 4, 5 and 6 of the Use Classes Order):

Q.66 Do you agree with the introduction of PDR to allow the erection of cycle stores for buildings of class 4, 5 and 6 uses? If you disagree please explain why.

A.66 Yes, however PDR for structures in street facing locations of conservation areas should not be included, this would allow assessment of suitability on a case by case basis.

Other Locations:

Q.67 Do you agree with the introduction of PDR to allow the erection of cycle stores on-streets? If you disagree please explain why.

A.67 No.

There is potential for such structures erected by a body other than the Roads Authority to impact upon vehicular and pedestrian safety, and/or to be unsightly on the streetscape and would need to be considered in detail, and in consultation with local residents/businesses. Location and materials would be key considerations this should not fall within PDR.

If PDR were to be introduced for on-street cycle stores it is suggested that this should include provision that the Roads Authority must be consulted to ensure footways are not restricted to such an extent that they affect disabled access. Consideration must be given to the needs of those with sight issues. Footway widths of 1.8m minimum must be maintained unless otherwise agreed by the Roads Authority. Visibility at access/junctions must not be obstructed. Signs, traffic lights and so on must not be obstructed.

Q.68 If such PDR is introduced, do you agree with the proposed maximum size for the cycle stores, and the proposed restriction on the number allowed in a particular street or block? If you disagree please explain why.

A.68 If PDR were to be introduced then it is agreed that restriction on maximum size and number would be appropriate – this does not however satisfactorily address the concerns expressed at Q.67 above.

Q.69 If such PDR is introduced, do you think it should it be allowed in conservation areas and, if so, should it be subject to any other limitations on size, materials etc? If you disagree please explain why.

A.69 No.

It is considered that PDR for on-street cycle storage should not be introduced within conservation areas. Conservation areas each have their own varying and unique characteristics and as such proposals for prominent new development within the streetscape would require to be assessed on a case by case basis to establish their suitability or otherwise.

Q.70 Is there any other amendment to the General Permitted Development Order that you think we should consider in order to encourage active travel further?

A.70 No.

Part 8 Strategic Environmental Assessment Post-adoption Statement Summary

Q.71 What are your views on the findings of the Update to the 2019 Sustainability Appraisal Report that accompanies this consultation document? (N.B. Consultees are asked to avoid restating their views on the November 2019 consultation as these views are already being taken into account.)

A.71 Concern is expressed that para 3.3.3 does not identify the potential negative effects associated with the introduction of new PDR for conversion of agricultural buildings – in particular concern is expressed in respect of the potential for the proposals to adversely impact upon rural service and infrastructure, and the ability of PDR to deliver development of an appropriately high design standard and amenity.

Part 9 Assessment of Impacts

Q.72 Do you have any comments on the partial and draft impact assessments undertaken on these draft Phase 1 proposals?

A.72 Comments below:

Annex B - Business and Regulatory Impact Assessment

Concern is expressed that the consideration of costs and benefits within the BRIA does not accurately reflect that proposals set out in the Phase 1 consultation would result in much of the development that is removed from the planning application process requiring to be the subject of a prior notification/prior approval process to allow an assessment of its individual circumstances. It is contended that any complex prior approval process that may be required to consider proposals for conversion of agricultural buildings will deliver very little benefit to applicants in respect of certainty of outcome, cost of preparing a submission, or timescale of determination. There is not expected to be any significant benefit to the planning authority as the scope of the new procedure that would be required for assessment of PDR agricultural conversion has the potential to be more complex than the planning application process and may in fact actually increase the resource required by the planning authority to undertake the assessment in some cases. This, coupled with the reduction in fees associated with prior approval would increase cost pressures upon delivery of the Development Management Service and is contrary to the Scottish Government's stated aspiration that local authorities seek to move to full cost recovery for this regulatory activity.

Annex E – Fairer Scotland Duty Assessment

Whilst there may well be existing permitted development rights relating to agricultural buildings these operate solely to support the undertaking of existing agricultural activity through reduction in planning regulation. The Phase 1 proposals would introduce an entirely new concept that that a wide range of alternative land uses can be accommodated within an agricultural holding without requiring the benefit of express planning permission. Whilst the Council is supportive of the Scottish Government's aspirations to enhance the rural economy and farm diversification it is highlighted that the conversion of agricultural buildings outwith the normal planning process give rise to a significant shift in policy from one where new development will be supported if it accords with the Development Plan (and/or with regard to any other material considerations) to a position where every agricultural holding in Scotland larger than 0.4ha (with limited exceptions) would gain an inherent right to convert buildings providing up to 5 dwelling units and/or up to 500sqm of commercial floorspace within each farm unit unless the planning authority are able to demonstrate that this is inappropriate on a case by case basis.

It is contended that this shift in emphasis not only represents a significant strategic change in national planning policy, but also that any move to a 'prior notification/prior approval' process to manage this type of development has the potential to disenfranchise communities and third parties who would otherwise have been afforded the opportunity to engage with the development of local policy through the Development Plan process, and the right to make representation on individual planning applications. The proposed response to Q.72 accordingly sets out that the proposals in relation to PDR for conversion of agricultural buildings are of sufficient

significance to merit a full and detailed assessment under the Fairer Scotland Duty in their own right. In the response to Q.73 it is highlighted that planning authorities will hold data relating to approval of new development outwith settlement areas that may assist the Scottish Government in reviewing the necessity for this proposed intervention which will impact upon the ability of local authorities to make provision for the good planning for their locality within a plan led system.

Q.73 Do you have any suggestions for additional sources of information on the potential impacts of the proposals that could help inform our final assessments?

A.73 The Council's response to this consultation questions whether the proposals to introduce PDR for the conversion of agricultural buildings is a necessary or desirable intervention by the Scottish Government. It is suggested that planning authorities will hold data that would allow the Scottish Government to give further consideration as to whether or not the planning application process is actually the barrier which they perceive it to be to the realisation of new residential and commercial development within rural locations.

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Appendix C

Research Project:

**Analysis of responses to a consultation
on reviewing and extending permitted
development rights (PDR)**

Report prepared by:
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Details of additional assistance
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The opinions expressed in this report are those of the author.

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Executive Summary

- 1 This report presents analysis of responses to a public consultation on reviewing and extending Permitted Development Rights (PDR). The consultation sought views on a proposed work programme and associated Sustainability Appraisal (SA) report for review of PDR. The final number of submissions received was 113, including 61 responses from group respondents and 52 from individuals.

The proposed work programme

- 2 A total of 101 respondents commented on the proposed work programme. Of these, 30 expressed broad support, 44 provided comments which criticised aspects of the programme or offered further suggestions of how this could be improved (the great majority being individuals, including 16 campaign plus responses) and 27 did not express a clear view on the work programme as a whole. Most of those providing comment, including those who expressed broad support, raised issues or suggested amendments to the proposed work programme. Several common themes were evident.
- 3 Some objected to any extension of PDR, suggesting that current PDR are already extensive and that recent additions to PDR have not have a significant positive impact on pressures for local authorities. Some third sector respondents saw a need to expand the work programme to incorporate a review of the General Permitted Development (Scotland) Order as a whole, including a suggestion that the GPDO includes development types that could hinder Scotland's net-zero emissions targets and that should be subject to greater scrutiny.
- 4 Some common issues were also highlighted in relation to the detail of the proposed work programme. This included concerns regarding potential extension of PDR to designated areas and heritage locations, and suggestions for other development types which could be considered for PDR including to support delivery of more homes in Scotland. A planning authority wished to see a review of prior notification and approval procedures alongside the review of PDR.
- 5 Comments on specific development types set out in the proposed work programme were most commonly focused on Phase 1, including digital communications infrastructure, agricultural developments and micro-renewables. However, some also commented on later phases of the work programme including town centre changes of use and householder developments (Phase 3), and district heating and energy storage (Phase 4). Comments on specific development types are considered in the main body of this report.

Accuracy and scope of information

- 6 A total of 74 respondents commented on the accuracy and scope of information set out in the SA. Of these, 20 expressed broad support, 18 provided comments which criticised aspects of the accuracy and scope of information

described or offered suggestions as to how this could be improved, and 36 did not give a clear overall view. Those expressing support included a mix of planning authorities and other public bodies, planning/other professionals, private sector, third sector and individual respondents. However, most of those providing comment raised issues or concerns regarding the baselines set out in the SA. These were primarily related to specific development types, but some common themes were raised across the environmental, social and economic baselines.

- 7 Some respondents were of the view that some of the information set out in the SA is 'generic' rather than specifically related to the development types under consideration, and is based on assumption and broad assessment. These respondents wished to see more detailed information to inform the work programme, including suggestions that this should be done via the Post Adoption Statement.
- 8 Some suggested that the evidence base as set out in the SA includes out of data sources, including comments from other public bodies, private sector and third sector respondents. Some also noted that reference to legislation and wider policy objectives should be kept under review to ensure they remain current as the work programme progresses.
- 9 Several planning/other professional and third sector respondents raised concerns regarding the extent to which the SA baselines take sufficient account of potential impacts on Scotland's historic and cultural heritage. These respondents expressed a view that historic and cultural heritage is relevant across the environmental, social and economic baselines, and should be referenced by each.
- 10 Some respondents, primarily third sector organisations, referred to perceived gaps in the environmental, social and economic baselines as set out in the SA. This included: suggestions that the environmental baseline should recognise the pressure on biodiversity across Scotland and not only in designated areas; concern that some designations had been omitted from the environmental baseline; suggestions that further development of the environmental, social and economic baselines was required to support consideration of 'reasonable alternatives' to extension of PDR; and suggestions that the baselines do not include sufficient consideration of the potential impact of PDR on flood risk.
- 11 Comments on the information set out in relation to specific development types were most commonly focused on Phase 1, in particular agricultural developments and micro-renewables, although respondents also referred to later phases of the work programme. Comments on specific development types are considered in the main body of this report.

Predicted effects

- 12 A total of 81 respondents commented on the predicted effects as described in the SA. Of these, 13 expressed broad support, 44 provided comments which criticised aspects of the predicted effects (the majority being individuals, including 16 campaign plus responses), and 24 did not express a clear overall view.

- 13 Most of those providing comment raised issues or concerns, including those expressing broad support for the SA description of predicted effects. The great majority of these issues or concerns related to specific development types. However, several common themes were also evident. Some themes were similar to those raised in relation to the accuracy and scope of information set out in the SA, including what were seen as out of date sources, and effects on historic and cultural heritage.
- 14 Other issues raised by respondents included suggestions that further consideration is required for potential cumulative effects of extending PDR, including how these can be assessed. Concerns regarding cumulative effects were primarily related to landscape and biodiversity, but some also referred to potential cumulative effects in relation to flood risk.
- 15 Some respondents raised concerns regarding how predicted effects are described throughout the SA. This included suggestions that, where predicted effects are significantly negative or are uncertain, consideration should be given to whether these development types are suitable for PDR. Others suggested that greater consistency is required in the language used to ascribe value to predicted effects, and that use of 'reversible' should be better qualified. Some also had difficulty reading between the main SA report and appendices to assess the significance of predicted effects. An other public sector respondent suggested that any such inconsistencies should be addressed in the Post Adoption Statement.
- 16 Comments on the predicted effects for specific development types were most commonly focused on Phase 1, and in particular digital communications infrastructure, agricultural developments and micro-renewables. Respondents also referred to later phases such as EV charging infrastructure and active travel (Phase 2), and householder developments (Phase 3). Comments on specific development types are considered in the main body of this report.

Mitigation and monitoring

- 17 A total of 75 respondents commented on proposals for mitigation and monitoring of predicted effects. Of these, 6 expressed broad support for the proposals, 23 provided comments which criticised aspects of mitigation and monitoring, and 46 did not express a clear overall view. Those expressing support included planning/other professionals and private sector respondents. However, a substantial proportion of those providing comment raised issues or suggested amendments to proposals.
- 18 Some common themes were evident across these comments. This included some of the themes noted in relation to the evidence baseline and predicted effects such as monitoring cumulative impact, mitigating effects on cultural heritage and concerns regarding the lack of mitigation proposals to address increased flood risk.
- 19 Some respondents felt that information provided on mitigation and monitoring proposals was very limited and incomplete. It was also noted that mitigation proposals did not include detail on implementation mechanisms, which were seen as a key factor in the effectiveness of proposals. In relation to monitoring,

some suggested that, as a minimum, the SA should consider the role of existing regimes. It was suggested that mitigation mechanisms and monitoring proposals should be outlined more comprehensively in the Post Adoption Statement.

- 20 Respondents also expressed some concerns regarding what was seen as over-reliance on good practice guidance to mitigate the effects of PDR, including that good practice could have limited mitigation benefits if it cannot be implemented or enforced. Concerns were also raised regarding the potential benefits of prior notification/approval as a means of mitigating the effects of extending PDR. Some suggested that this 'intermediate' approach may cause confusion for applicants, and could undermine the benefits of extending PDR in terms of streamlining the planning process and reducing burden on planning authorities.
- 21 Comments on mitigation and monitoring proposals for specific development types were most commonly focused on Phase 1 including digital communications infrastructure, agricultural developments and micro-renewables, although reference was also made to later phases of the work programme. Comments on specific development types are considered in the main body of this report.

Other comments

- 22 A total of 58 respondents took the opportunity to provide further comment on the SA report. Most of these reiterated points discussed earlier in relation to specific development types or common themes. This included consideration of cumulative impact (particularly on flood risk), effects on cultural heritage, and environmental impact for biodiversity and flooding.
- 23 Other points raised by respondents included suggestions that, if the overall approach to extending PDR is to deliver the expected benefits, it should result in consolidated legislation and guidance. This included specific reference to the opportunity to review the current prior notification/approval scheme to streamline the process.
- 24 Some referred to general principles that should shape consideration of which development types are suitable for PDR. These included reference to the potential need to limit PDR for development types where predicted effects are expected to be significantly negative, or where effects are unclear.
- 25 Several respondents highlighted the importance of ongoing consideration of issues raised by the SA, including more detailed mitigation and monitoring proposals, as part of the proposed work programme. This included a number of respondents specifically expressing interest in ongoing engagement with the Scottish Government as part of this process.

1. Introduction

Background

- 1.1 This report presents analysis of responses to a public consultation on reviewing and extending Permitted Development Rights (PDR).
- 1.2 PDR typically apply to minor or uncontroversial developments or changes to existing development, and remove the need to apply for planning permission. PDR are intended to reflect cases where the scale and nature of a development is noncontentious and where refusal of planning permission is highly unlikely, such that consideration of the development by the planning authority is unlikely to add value. In this way, PDR can increase efficiency across the planning system, reducing the burden on planning authorities and applicants, and allowing planning officers to focus on developments where they can add most value.
- 1.3 PDR have been a feature of the planning system in Scotland for several decades, with PDR set out in The Town and Country Planning (General Permitted Development) (Scotland) Order 1992. Legislation has been amended in recent years, but PDR remains an area of complex ‘micro level’¹ regulation. This is reflected in the report of an Independent Panel review of the planning system, Empowering Planning to Deliver Great Places², published in 2016. The Independent Panel saw significant scope to remove uncontroversial minor developments from the planning system, with potential to incentivise developments which support policy aspirations such as low carbon living and digital infrastructure. In this regard PDR could also support wider Scottish Government policy objectives to accelerate the reduction of emissions and address the global climate emergency, a key focus for Scotland’s fourth National Planning Framework (NPF4).
- 1.4 The Independent Panel report included a specific recommendation to review PDR to identify potential for significant expansion to their role in the planning system. In response, the Scottish Government asked Heads of Planning Scotland (HOPS) to consider the role and operation of PDR in the planning system, and to make specific recommendations for change. HOPS considered that legislation and regulation around PDR were ‘in need of an overhaul and rethink to reposition them in a contemporary context which also simplifies and streamlines’, and recommended that options for the simplification of PDR would benefit from further discussion and consultation to identify options for radical change to the role of PDR.

¹ Heads of Planning Scotland Permitted Development Report: <https://beta.gov.scot/publications/planning-review-extension-permitted-development-rights-report>

² Empowering Planning to Deliver Great Places: <https://beta.gov.scot/publications/empowering-planning-to-deliver-great-places>

- 1.5 The Scottish Government, taking into account findings of the Independent Panel and HOPS, developed a proposed work programme for substantial review and extension of PDR in Scotland. The work programme is based around 16 development types, identified by the Scottish Government for further consideration of extensions or changes to PDR. A Sustainability Appraisal (SA) report was developed to consider the potential environmental, social and economic impacts of changes to PDR. This also informed the work programme in terms of prioritisation of changes across specific development types. In addition to wider policy objectives to address the global climate emergency; for example in relation to micro-renewables and peat restoration, digital communications infrastructure, hill tracks and a specific focus on the potential for extension of PDR to further support the rural economy, the future of the farming sector in Scotland, and delivery of affordable homes in rural areas.
- 1.6 The work programme and associated SA report were the subject of the consultation. The consultation paper asked 5 open questions in relation to the work programme and SA report, several of which include sub-divisions relating to the environmental, social and economic aspects of the programme. One question related to the work programme and phasing as a whole, while the remaining four related to specific elements of the SA report. The consultation opened on 5 November 2019 and closed on 28 January 2020. The paper is available at: <https://www.gov.scot/publications/scottish-governments-proposed-work-programme-reviewing-extending-permitted-development-rights-pdr-scotland/>

Profile of responses

- 1.7 In total 113 responses were received, of which 61 were from groups or organisations and 52 from individual members of the public. The 52 responses from individuals included 16 'campaign plus' responses where respondents had adapted standard text on domestic cycle storage produced by Spokes (a third sector campaign group included in the 61 group respondents).
- 1.8 Where consent has been given to publish the response it may be found at <https://consult.gov.scot/local-government-and-communities/reviewing-and-extending-pdr/>
- 1.9 Respondents were asked to identify whether they were responding as an individual or on behalf of a group or organisation. Group respondents were allocated to one of four broad categories (and one of 11 sub-groups) by the analysis team. A breakdown of the number of responses received by respondent type is set out in Table 1 below, and a full list of group respondents appended to this paper.

Table 1: Respondents by type

ALL RESPONDENTS		113
Organisations:		61
Public sector		16
	<i>Planning authorities</i>	11
	<i>Other public bodies</i>	5
Planning and other professionals		5
1.1.1	Private sector	19
	<i>Energy supply and/or distribution</i>	6
	<i>Telecoms</i>	4
	<i>Rural economy</i>	5
	<i>Other</i>	4
Third sector		21
	<i>Environment</i>	8
	<i>Representative bodies/groups</i>	2
	<i>Campaign groups</i>	3
	<i>Other</i>	8
Individuals		52

1.10 Responses varied in their focus across the consultation. Some focused primarily, or exclusively, on specific development types including responses providing significant detail on issues around the extension of PDR for these development types. Other respondents commented across a broader range of development types, including a small number of providing detailed comments in relation to each of the 16 development types considered by the consultation paper.

1.11 The extent to which responses focused on specific development type varied by respondent type and appeared to reflect respondents' experience and expertise. For example, several respondents drew on their experience and knowledge when focusing on specific development types such as micro-renewables and digital communication infrastructure, while some public bodies providing highly detailed responses across a range of development types.

Analysis and reporting

1.12 This report presents an analysis of responses received in relation to each of the five consultation questions in turn. Respondents made submissions in a range of formats, some including material that did not directly address specific consultation questions. This content was analysed qualitatively under the most directly relevant part of the consultation.

1.13 Under each consultation question, our analysis is structured around the 16 development types and other common themes raised by respondents. There

was some commonality in themes raised across the consultation questions; we note where this is the case but have not repeated a full account of each theme across all questions.

1.14 A list of acronyms used in the report is provided at the annex.

2. The proposed work programme

- 2.1 The first consultation question sought views on the work programme set out in the consultation paper for reviewing and extending PDR. The work programme is based around 16 development types identified by the Scottish Government, split into six work phases. Prioritisation of these development types has been informed by the SA report.

Q1. Do you have any comments on the proposed Work Programme, including the proposed phasing and groupings?

- 2.2 A total of 101 respondents addressed Question 1, including 57 organisation respondents and 44 individuals. Of these 101 respondents, 30 expressed broad support for the proposed work programme, 44 provided comments which criticised aspects of the proposed work programme (the great majority of these being individuals, including 16 campaign plus responses) and 27 did not express a clear view on the work programme as a whole.
- 2.3 Most of those expressing broad support for the work programme raised some issues or suggested amendment to the programme; overall, 81 respondents (40 organisations and 41 individuals) raised issues or concerns, or suggested amendments to the work programme. Table 2 summarises these responses by respondent type.

Table 2: Respondents to Question 1 by type

	Answered Question 1	Raised issues or amendments
ALL RESPONDENTS	101	81 (80%)
Organisations	57	40 (70%)
Public sector	16	10
<i>Planning authorities</i>	<i>11</i>	<i>7</i>
<i>Other public bodies</i>	<i>5</i>	<i>3</i>
Planning and other professionals	5	4
Private sector	17	13
<i>Energy supply and/or distribution</i>	<i>6</i>	<i>4</i>
<i>Telecoms</i>	<i>4</i>	<i>2</i>
<i>Rural economy</i>	<i>4</i>	<i>4</i>
Other	3	3
Third sector	19	13
<i>Environment</i>	<i>7</i>	<i>3</i>
<i>Representative bodies/groups</i>	<i>2</i>	<i>1</i>
<i>Campaign groups</i>	<i>3</i>	<i>2</i>
<i>Other</i>	<i>7</i>	<i>7</i>
Individuals	44	41 (93%)

- 2.4 A range of respondents used Question 1 as an opportunity to express their support for the grouping and phasing of development types. This included a mix of planning authorities, planning/other professionals, private sector, third sector and individual respondents.
- 2.5 As Table 2 shows, most of those providing comment at Question 1 raised issues or suggested amendments to the proposed work programme, including from those who also expressed general support for the work programme. For most respondents, these suggestions related to specific development types and we summarise these over the following pages. However, a number of common themes were also evident across these responses.
- 2.6 Some respondents objected to any extension of PDR, including a planning authority and individual respondents. These respondents suggested that existing PDR are already extensive and that recent additions to PDR have not had a significant positive impact on pressures for local authorities. Some individuals also suggested that the work programme did not give sufficient emphasis to the rights of communities affected by development.
- 2.7 Others suggested that it was unclear how the selection of specific development types and the phasing of the work programme related to specific findings set out in the SA report. This included an other public body suggesting that prioritisation of the work programme to support the rural economy does not appear to have been subject to any assessment or consideration of alternatives.
- 2.8 Some respondents highlighted other development types which they felt should be considered for PDR. This included a private sector and a third sector respondent suggesting that the proposed work programme could give more consideration to opportunities to support policy aspirations around delivery of more homes in Scotland, and particularly delivery of affordable rural homes. This included specific suggestions for PDR to be extended to include development of housing: where a need for affordable housing can be demonstrated; to support rural economic development; community-led housing, collective self-build or mutual home ownership cooperative developments; on land identified for affordable housing through Local Place Plans; to enable succession of farm ownership; and homes on new entrant small holdings/farms. A private sector respondent also suggested a potential role for PDR for the replacement of a rural dwelling with a poor energy performance rating, with a 'nearly zero' emission dwelling.
- 2.9 A number of respondents raised concerns regarding potential extension of PDR to designated areas, wild land areas and heritage locations. It was suggested that potential benefits for climate policy and digital infrastructure, for example, do not warrant permitting development that could cause unacceptable harm to these locations. A planning authority suggested a need for a cross-cutting work stream to consider the role of designated areas in relation to PDR, including specific reference to a perceived need for clarity regarding PDR in relation to World Heritage Sites (WHS).

- 2.10 Some third sector respondents saw a need to expand the work programme to incorporate a review of the General Permitted Development (Scotland) Order (GPDO) as a whole. This included a suggestion that the GPDO includes development types that could hinder Scotland's net-zero emissions targets and that should be subject to greater scrutiny. A planning authority wished to see a review of prior notification and approval procedures, alongside the review of PDR.

Phase 1 development types

- 2.11 Support for the prioritisation of PDR for **digital communications infrastructure** included reference to the importance of digital infrastructure for wider Scottish Government policy priorities, including the rural economy. Several respondents referred to the importance of PDR in reducing the costs and time associated with the rollout of digital infrastructure to rural areas. A private sector respondent also noted the urgency associated with reform to PDR for mobile network infrastructure to support the ongoing rollout of 5G.
- 2.12 However, most of those referring to PDR for digital communications infrastructure raised issues or amendments for the proposed work programme and the scope of PDR. These issues and amendments are summarised below.
- Some suggested that extensive PDR are already in place for digital communications infrastructure, and have been subject to relatively recent change. This included concerns raised by several respondents that care will be required to ensure any further changes do not have a negative impact on the built or natural heritage. Others suggested that time should be allowed for evaluation of recent changes to PDR for digital communications before further changes are introduced.
 - Some made specific recommendations for the infrastructure to which PDR should apply, including reference to the potential value of aligning PDR in Scotland with the ongoing review of mobile planning rules in England and Wales. It was also suggested that PDR should ensure 'critical' digital infrastructure can streamline the current two stage notification process. This included suggestions that PDR should include:
 - o All telecoms cabinets/boxes outwith conservation areas, including a suggestion that these could be classified as 'critical infrastructure'.
 - o Some higher masts (with prior approval) as part of the Shared Rural Network.
 - o Strengthening of existing masts for upgrade to 5G, without prior approval.
 - o Building and rooftop based apparatus without prior approval.
 - o Deployment of radio housing equipment outwith sites of special scientific interest, without prior approval.

- o Aligning PDR for mobile infrastructure with fixed telecoms operators.
- o A requirement for prior approval of digital communications infrastructure in conservation or other designated areas.
- o A requirement for prior publication of exclusion zones for 5G infrastructure (including upgrade of existing 4G infrastructure to 5G), noting that these are typically much larger than for 4G infrastructure and as such are more likely to interact with existing or potential developments.
- Some campaign groups and individuals objected to the extension of PDR for digital communications infrastructure, and specifically for 5G infrastructure. This included respondents raising concerns around the potential impact of 5G infrastructure on health and wellbeing, biodiversity and the built environment. Some suggested that appropriate research should be completed before any further change to PDR for digital infrastructure.
- A private sector respondent objected to extension of PDR for digital communications infrastructure due to potential impacts for aviation safety.

2.13 The prioritisation of PDR for **agricultural developments** was welcomed by a number of respondents, including planning authorities. These respondents referred to the importance of the development type for Scottish Government policy objectives to support rural economies and rural repopulation, and for National Parks and other designated areas.

2.14 However, most of those referring to PDR for agricultural developments raised issues or amendments for the proposed work programme and the scope of PDR. These issues and amendments are summarised below.

- Support for extension of PDR to agricultural developments included specific suggestions for increasing the current 465m² limit on PDR to 1000m², and relaxing limits on polytunnels as temporary infrastructure.
- Some respondents also supported PDR for conversion of farm buildings to residential or commercial use, including suggestions that this should allow for replacement of agricultural buildings with housing or commercial development within the same footprint. These suggestions were linked to concerns that current proposals as set out in the SA may not go far enough for the delivery of affordable rural housing and to support rural repopulation. Respondents also referred to a need for flexibility in housing policy to allow agriculture to adapt to change in who will be farming what land under post-Brexit trade policies.
- Concerns regarding extension of PDR to agricultural developments were most commonly related to change to residential use. This included a suggestion from planning authority and planning/other professional respondents that existing controls on such changes of use are required to maintain landscape value and recreational use, to prevent inappropriate

development particularly in areas of countryside/green belt adjacent to urban areas, and suggestions that current Local Development Plan (LDP) processes are sufficient for delivery of rural housing. Some specifically objected to extension of PDR to these developments and suggested review of the current prior notification process to assist with streamlining. Others saw a need for conditions on any extension of PDR to ensure privacy, amenity space and parking, particularly in some crofting areas.

- A planning authority suggested that flood risk areas should be excluded from any extension of PDR for agricultural developments.
- A private sector respondent objected to extension of PDR for agricultural developments due to potential impacts for aviation safety.

2.15 Support for extension of PDR for **micro-renewables** was most commonly linked to the potential to streamlining micro-renewables development to support the government's targets regarding emissions reduction and addressing the climate emergency. Some also felt that extension of PDR for micro-renewables had potential to deliver significant benefits for local economies, including a suggestion that the SA under-estimates this local impact.

2.16 Some of those referring to PDR for micro-renewables raised issues or amendments for the proposed work programme and the scope of PDR. These issues and amendments are summarised below.

- Some suggested that extensive PDR are already in place for micro-renewables development, and that careful consideration would be required to ensure that any additional PDR do not have a negative impact on the built or natural environment.
- A planning/other professional respondent suggested that consideration should be given to further guidance to minimise negative impacts of micro-renewables on buildings and roofscapes.
- A private sector respondent recommended that solar development is identified as a priority sub-grouping to reflect ease of deployment and recent technological developments.
- A private sector respondent suggested that PDR for micro-renewables may not be appropriate in some rural areas.
- An individual respondent objected to the extension of PDR for biomass on the basis of potential for negative impact on air quality and use of non-renewable fuel sources.
- A private sector respondent objected to extension of PDR for micro-renewables due to potential impacts for aviation safety.

2.17 Support for the prioritisation of **peatland restoration** included respondents highlighting the importance of the development type for National Parks,

designated areas and other rural locations. Several respondents referred to the importance of the planning system facilitating peatland restoration given the potentially significant positive impacts for the local and global environment, biodiversity, and flood prevention.

2.18 Issues or amendments for the proposed work programme and the scope of PDR for peatland restoration are summarised below.

- A planning authority made specific suggestions for any change to PDR for peatland restoration in WHS to make clear how PDR relate to the 'property boundary' and any adjacent 'buffer zone' of the WHS, and considers whether extension of PDR may be suitable in some WHS.
- A planning authority suggested that habitat pond creation (Phase 4 of the proposed work programme) should be combined with peatland restoration under a wider 'wetlands' heading, reflecting the relevance of 'wetlands' to the wider policy context.
- A private sector respondent noted potential opportunities for peatland restoration provided by renewable developments.

2.19 Several respondents specifically welcomed the prioritisation of **hill tracks (private ways)** in considering the scope of PDR. This included reference to management of private ways being a particularly significant issue in National Parks and other rural local authority areas across Scotland.

2.20 However, respondents expressed a mix of views on any potential change to the scope of PDR for hill tracks. Some suggested that hill tracks are essential to the rural economy and noted that hill tracks constructed for agriculture or forestry operations often have multiple uses and deliver multiple benefits. This included a private sector respondent who did not wish to see any limitation on current PDR for hill tracks.

2.21 In contrast, a planning/other professional respondent suggested that there is significant public concern regarding the impact of hill tracks on rural landscapes, and that controls are still required to ensure the impact is minimised in sensitive areas. Issues or amendments for the proposed work programme and the scope of PDR for hill tracks are summarised below.

- In terms of potential scope for extension of PDR for hill tracks, respondents suggested this could apply to small scale developments in low lying areas that do not have the negative impacts that hill track restrictions seek to manage, and forestry tracks which are already subject to other planning and Environmental Impact Assessment regulations. It was also noted that the SA raises the potential for PDR for hill tracks relating to new ground-based masts and snow sports.
- A private sector respondent suggested that clearer guidance is required on hill track construction, including the distinction between 'maintenance' and 'alteration' of existing hill tracks.

- Some noted that the review of PDR for hill tracks is not covered by the SA and wished to see further evidence provided.

Phase 2 development types

2.22 Support for extension of PDR for **electric vehicle (EV) charging infrastructure** and **active travel** was primarily related to the potential contribution to emissions reduction, and wider climate change policy objectives.

2.23 A number of issues or amendments were raised in relation to the proposed work programme and the scope of PDR. Key points raised in relation to EV charging infrastructure are summarised below.

- A planning authority, planning/other professional and some private sector respondents suggested giving higher priority to EV charging infrastructure (and active travel) to be included in phase 1. This included a suggestion that EV charging infrastructure could be classified as 'critical infrastructure' as a means of reducing the need for planning applications. A private sector respondent also suggested that installation of small domestic EV chargers is sufficiently non-controversial as to be dealt with quickly in phase 1.
- Some private sector respondents suggested that the current prohibition on PDR in National Parks and other designated areas should be reviewed as part of the work programme, recognising the need to balance protection of these areas with the delivery of climate change policy objectives.
- A private sector respondent suggested there is a need to encourage greater use of existing EV charging infrastructure before consideration of any extension of PDR, and that the development type could be moved to phase 3.

2.24 Key points raised in relation to PDR for **active travel** are summarised below.

- A planning authority suggested giving higher priority to active travel (and EV charging infrastructure) to be included in phase 1.
- A planning/other professional suggested that careful consideration should be given to the kinds of active travel developments (and associated impact) where a planning application is still warranted.
- Some suggested that active travel should be removed from the extension of PDR.
- A number of third sector and individual respondents (including the 'campaign plus' respondents noted in section 1 of this report) suggested that the active travel development type should be expanded to include sheds and storage containers for bike storage. These respondents noted that bike storage is currently included in the 'householder developments' at phase 3, but suggested that they could make a significant contribution

to the modal shift to active travel. These respondents also wished to see extension of PDR to include installation of bike storage in the front of residential properties.

Phase 3 development types

2.25 Support for extension of PDR for **town centre changes of use** was most commonly linked to the potential contribution to wider socio-economic policy objectives, and particularly for town centre regeneration.

2.26 However, most of those referring to PDR for town centre changes of use raised issues or amendments for the proposed work programme and the scope of PDR. These are summarised below.

- A planning/other professional suggested that town centres change of use should be considered earlier in the proposed work programme, given the importance of town centres for wider socio-economic policy, and the value of aligning this work with preparation of NPF4.
- A planning/other professional suggested there will be a need for careful consideration of potential problems and unintended consequences associated with changes of use, and that this could undermine some of the key principles of Development Management. Some respondents also suggested there is potential conflict with environmental health and public health issues, and the 'agent of change' introduced by the Planning Act, if extending PDR led to a significant increase in residential buildings in town centres. This included potential threats to the arts and cultural offer of town centres.
- A planning authority noted that commentary around the work programme makes reference to 'sui generis' uses, and noted that this would represent a change to current PDR for changes of use.
- It was suggested that current LDP policy frameworks could be reviewed to remove restrictive uses.
- A private sector respondent suggested that consideration is given to extending PDR for town centre changes of use to include villages to support village regeneration and to support rural communities more widely.

2.27 Most of those referring to PDR for **householder developments** raised issues or amendments for the proposed work programme and the scope of PDR. These are summarised below.

- A planning/other professional suggested the need for PDR for householder developments to balance freedom of choice, community and neighbourly responsibility. It was noted that many householder applications are approved unconditionally where they comply with existing controls or guidance, and have often been the subject of pre-applications discussion with opportunities for comment from neighbours.

- A private sector respondent noted the potential for PDR for householder developments to enable changes required for climate change mitigation and adaptation.
- A public body and a private sector respondent suggested that the review of PDR for householder developments should be aligned with the ongoing review of Scottish Government surface water policy.
- A number of third sector and individual respondents (including the 'campaign plus' respondents noted in section 1 of this report) suggested that sheds and storage containers for bike storage should be moved from the householder developments to the active travel development type.

Phase 4 development types

2.28 Support for extension of PDR for **district heating and supporting infrastructure** was most commonly linked to supporting the role of district heating in decarbonising heat and delivering wider climate change policy objectives. This included reference to the phasing of this development type fitting with Local Heat and Energy Efficiency Strategies (LHEES).

2.29 Issues or amendments for the proposed work programme and the scope of PDR for district heating are summarised below.

- A public body respondent suggested that district heating and supporting infrastructure could be brought forward in the work programme to encourage project development.
- Several respondents referred to the importance of thermal storage for heat networks, to facilitate use of low carbon energy sources and enable heat networks to manage peak demand. This included suggestions for PDR to be extended to include thermal storage in heat networks and domestic dwellings. A public body respondent also suggested that thermal stores can have an impact on visual amenity and as such should be considered as part of infrastructure related to district heating.
- A private sector respondent suggested that the extension of PDR may not alone address the current time delays associated with planning applications for heat networks, and wished to see an accelerated planning process to address these.

2.30 Support for extension of PDR for **domestic and non-domestic energy storage** was most primarily related to the potential role of energy storage in decarbonising heat and delivering wider climate change policy objectives.

2.31 Issues or amendments for the proposed work programme and the scope of PDR for domestic and non-domestic energy storage are summarised below.

- Several private sector respondents suggested that energy storage should be considered earlier in the work programme, including reference to the

relevance of energy storage for some forms of micro-renewable energy generation (included at phase 1).

- A private sector respondent suggested that non-domestic energy storage differs substantially from domestic storage and should be considered as a distinct category.
- A private sector respondent raised concerns about potential negative impacts on cultural heritage and landscape associated with energy storage, although it was acknowledged that this must be balanced with the potential contribution to climate change objectives.
- A private sector respondent suggested a need for clarity in terminology, and specifically as to whether 'energy storage' is intended to refer to battery and/or other forms of energy storage.

2.32 Several respondents suggested that extension of PDR for **defibrillator cabinets** should be less complex than other development types, although a planning/other professional saw a need for careful consideration of prominent installations to traditional buildings in Conservation Areas. Some suggested that the development type could be considered earlier in the work programme.

Phase 5 development types

2.33 Support for extension of PDR for **habitat pond creation** included reference to potential benefits for biodiversity and wider environmental policy objectives. Issues or amendments for the proposed work programme and the scope of PDR for habitat pond creation are summarised below.

- A planning authority suggested that habitat pond creation should be merged with peatland restoration (at phase 1) under a heading of 'wetlands'. This included reference to the relevance of 'wetlands' to the wider physical and policy context. Others referred to potential for habitat pond creation to be considered earlier in the work programme, including reference to their relevance to agricultural developments (at phase 1), addressing the current confusion regarding the information and permissions required for pond creation, supporting flood prevention, and complimenting new house building and community expansion targets.
- A private sector respondent questioned the link drawn between PDR for habitat pond creation and future agricultural support programmes, and suggested that extension of PDR should be based on benefits to biodiversity (for example), rather than the support scheme under which the pond is created.
- Private sector respondents suggested a number of potential restrictions on PDR for habitat pond creation, including PDR only applying to ponds at or below ground level, and limitations on pond creation close to airfields to reduce the risk of birdstrike.

- A private sector respondent suggested that extension of PDR to pond creation has the potential to negatively impact food security and the sustainability of local farms, for example where ponds remove a large volume of farmland.
- A planning/other professional suggested that consideration should be given to the need for access to sites and removal of unwanted material.
- A private sector respondent objected to extension of PDR for habitat pond creation due to potential impacts for aviation safety.

2.34 Support for extension of PDR for **allotments and community growing schemes** included reference to the potential contribution to climate change policy, and suggestions that any negative effects would be minor, dependent on previous land use, and could be effectively mitigated.

2.35 Issues or amendments for the proposed work programme and the scope of PDR for allotments and community growing schemes are summarised below.

- A third sector respondent wished to see that PDR for allotments and community growing schemes should be considered alongside agricultural developments at phase 1. This included suggestions that many community growing schemes are agricultural in nature as they are focused on small scale food production.
- A planning/other professional suggested that consideration should be given to parking areas and controls on the number and size of outbuildings for each plot.
- A planning/other professional suggested that earlier phasing of habitat pond creation could compliment new house building and community expansion targets.

Phase 6 development types

2.36 A small number of respondents referred to extension of PDR for **snow sports**. This included suggestions that a lower priority is appropriate for this type of development, including reference to potential negative impacts on carbon emissions identified by the SA. A planning/other professional also saw a need for careful consideration of the potential need for controls in sensitive areas.

3. Accuracy and scope of information

- 3.1 The second consultation question sought views on the accuracy and scope of information set out in the SA report. The question was split into three parts, asking for views on the information in relation to (a) environmental baseline, (b) social baseline and (C) economic baseline. In practice, most of those providing comment at Question 2 considered the evidence base in the round. Where respondents considered specific aspects of the SA evidence this was most commonly in relation to the environmental baseline, and few respondents raised issues which were specific to the social or economic baselines.

Q2. What are your views on the accuracy and scope of the information described in the Sustainability Appraisal report as regards:

- a. environmental baseline?**
- b. social baseline?**
- c. economic baseline?**

- 3.2 A total of 74 respondents addressed Question 2, including 40 organisation respondents and 34 individuals. Of these 74 respondents, 20 expressed broad support for the SA baseline, 18 provided comments which criticised aspects of the accuracy and scope of information described or offered suggestions as to how this could be improved, and 36 did not give a clear overall view. Most of those expressing broad support raised some issues or concerns; overall, 59 respondents (27 organisations and 32 individuals) raised issues or concerns regarding the information described in the SA. Table 3 summarises these responses by respondent type.

Table 3: Respondents to Question 2 by type

	Answered Question 2	Raised issues or amendments
ALL RESPONDENTS	74	59 (80%)
Organisations	40	27 (68%)
Public sector	11	6
<i>Planning authorities</i>	7	2
<i>Other public bodies</i>	4	4
Planning and other professionals	4	2
Private sector	11	8
<i>Energy supply and/or distribution</i>	4	4
<i>Telecoms</i>	2	0
<i>Rural economy</i>	3	2
<i>Other</i>	2	2
Third sector	14	11
<i>Environment</i>	6	5
<i>Representative bodies/groups</i>	2	1
<i>Campaign groups</i>	2	2

<i>Other</i>	<i>4</i>	<i>3</i>
Individuals	34	32 (94%)
3.1	A range of respondents express their approval of the evidence base set out in the SA. This included a mix of planning authorities, other public bodies, planning/other professionals, private sector, third sector and individual respondents.	
3.2	As Table 3 shows, most of those providing comment at Question 2 raised issues or concerns regarding the accuracy and scope of the information described in the SA. Most of the issues raised related to specific development types and we summarise these over the following pages. However, a number of common themes were also evident across these responses.	
3.3	It should be noted that these common themes, and the great majority of points relating to specific development types, were raised in relation to the SA baseline as a whole, or were raised specifically in relation to the environmental baseline. Relatively few respondents raised issues specifically related to the social and economic baselines. The points considered below therefore relate to the environmental baseline; we highlight where points were also raised in relation to the social and/or economic baseline. Points raised exclusively in relation to the social and/or economic baselines are summarised at the end of this section of the report.	

Common themes

- 3.4 Some were of the view that some of the information set out in the SA is 'generic' rather than specifically related to the development types under consideration, and based on assumption and broad assessment. These respondents wished to see more detailed information provided for consultation as the work programme progresses, including more qualitative consideration of impacts. It was suggested that the Post Adoption Statement should be the mechanism by which key SA findings and evidence are taken forward to inform the ongoing work programme.
- 3.5 A planning/other professional was unsure of how the use of three separate baselines (environmental, social and economic) will be used to judge detailed proposals, and that clarification is required regarding areas of overlap between the baselines.
- 3.6 Some respondents suggested that the evidence base as set out in the SA includes out of data sources which could provide an inaccurate baseline for assessment. This included comments from other public bodies, private sector and third sector respondents. Some also noted that reference to legislation and wider policy objectives should be kept under review to ensure they remain current. Specific data sources are considered in relation to each of the development types over the following pages.
- 3.7 Several planning/other professional and third sector respondents raised concerns regarding the extent to which information set out in the SA takes sufficient account of potential impacts on **Scotland's historic and cultural**

heritage. These respondents expressed a view that historic and cultural heritage is relevant to the environmental, social and economic baselines and should be referenced by each.

3.8 Specific suggestions are summarised below.

- Further information on cultural heritage should be included under each development type at Appendix 2 to the SA, considering possible impacts and identifying potential mitigation.
- Reference to the 2019 Historic Environment Policy for Scotland should be included under 'Policies, Plans, Programmes and Strategies'.
- The SA should provide a clearer account of the respective roles of Historic Environment Scotland (HES) and local authorities in relation to the historic environment.
- The SA should acknowledge that non-designated heritage sites are recognised by Scottish Planning Policy as assets in their own right.

3.9 Some respondents, primarily third sector organisations, referred to **perceived gaps in the environmental, social and economic baselines** as set out in the SA. This included particular reference to biodiversity and designated areas. Specific comments are summarised below.

- Several third sector and individual respondents suggested that the environmental baseline should recognise the pressure on biodiversity across Scotland, not only in designated areas. Although it was also suggested that the SA could further emphasise the potential role of designated areas and Wild Land Areas in addressing declines in biodiversity.
- Some respondents felt that further development of the environmental, social and economic baselines was required to support consideration of 'reasonable alternatives' to extension of PDR. It was suggested that the Proposed Work Programme and/or Post Adoption Statement should ensure that environmental effects are taken account of future work-streams when considering alternatives.
- A third sector respondent suggested that recognition of uncertainty around the extent of PDR use at a local level raised questions regarding the ability of the SA to properly assess potential impacts associated with each development type.
- Some third sector respondents referred to specific designations as having been omitted from the environmental baseline set out in the SA. These included Special Landscape Areas, pre-1919 buildings as a national performance indicator for the historic environment, designated gardens and landscapes, designated historic battlefields, designated wild land, and green belt.

- The SA should include reference to the ‘purpose of planning’ as defined by the 2019 Planning Act, and the United Nations Sustainable Development Goals to be referenced throughout the SA.
- The SA should give more consideration to the potential adverse effects of PDR on the connectivity of habitat networks, and for example the fragmentation of green corridors and wetlands.

3.10 Several respondents suggested that the environmental, social and economic baselines do not include sufficient consideration of the potential impact of PDR on **flood risk**. This included respondents citing recent research evidence on the impact of ‘urban creep’ on flood risk, and suggestions that extending PDR for householder developments could increase the rate of urban creep. Some also suggested that the environmental baseline does not refer to the most up to date flood risk assessment for Scotland (from 2018), and as such underestimates current risk to homes and businesses.

Comments on the environmental baseline

Phase 1 development types

3.11 In relation to PDR for **digital communications infrastructure**, some individual respondents suggested that the evidence base on the potential impact of 5G development was incomplete or out of date. These respondents made reference to a small number of alternative evidence sources.

3.12 Key points raised in relation to information in the SA relating to PDR for **agricultural developments** are summarised below.

- A private sector respondent suggested that the SA did not fully explore the environmental, social and economic outcomes associated with extending PDR in agricultural development regarding brownfield sites.
- A private sector respondent wished to see more detailed evidence on extension of PDR to allow adaptation of existing agricultural buildings to create larger and more modern buildings.
- A private sector respondent would like to see more detail on the environmental, social and economic effects of extending PDR to allow change of use of agricultural development to provide residential housing.

3.13 Key points raised in relation to information in the SA relating to PDR for **micro-renewables** are summarised below.

- A private sector respondent suggested that the information provided on the predicted impact of extending PDR for solar PV is out of date, and does not take account of recent developments in solar technology. This included specific reference to the impact of installations to historic buildings and impacts on aviation and airports. It was also suggested that the social and economic baselines under-estimate the potential positive impacts of small scale solar development.

- A planning authority wished to see more detail on energy generation from micro-renewables in Scotland.
- An other public body suggested that the information set out in the SA should include consideration of broader interventions as 'reasonable alternatives' to extension of PDR, such as alternative incentives to encourage use of micro-renewables.

3.14 In relation to PDR for **peatland restoration**, a planning authority suggested that the evidence base should recognise that some peatland occurs outwith designated sites or rural areas.

3.15 In relation to PDR for **hill tracks (private ways)** some respondents wished to see further analysis of the implications of changes to PDR for hill tracks.

Phase 2 development types

3.16 Key points raised in relation to information in the SA relating to PDR for **electric vehicle charging infrastructure** are summarised below.

- A private sector respondent suggested that the baselines could do more to recognise scope for solar energy to contribute to reduction in emissions when deployed alongside EV charging infrastructure.
- A private sector respondent suggested that the SA over-states the potential negative impacts of EV charging infrastructure on cultural heritage, and does not provide sufficient justification for the proposed restriction on EV charging points within 2m of a road.

3.17 In relation to PDR for **active travel** a number of individual respondents wished to see the evidence base include reference to the position of households who need bike storage but do not have access to a rear garden.

Phase 3 development types

3.18 Key points raised in relation to information in the SA relating to PDR for **householder developments** are summarised below.

- An other public body suggested that the SA evidence base fails to acknowledge the potential for extension of PDR for householder developments to increase the rate of urban creep (increasing flood risk), and to negatively impact landscape and biodiversity through loss of householder garden space.

Phase 4 development types

3.19 In relation to PDR for **domestic and non-domestic energy storage** a private sector respondent suggested that more detail is required on who will be able to deploy battery storage under PDR, and recognition of the potential for extension of PDR to encourage more investment in battery storage schemes and lead to an increase in deployment.

Phase 5 development types

3.20 In relation to PDR for **habitat pond creation** a third sector respondent suggested that the SA should note the benefits of habitat pond creation for climate policy objectives.

3.21 Key points raised in relation to information in the SA relating to PDR for **allotments and community growing schemes** are summarised below.

- A third sector respondent highlighted several aspects of the SA baseline which were regarded as incorrect. This included suggestions that perimeter fencing does not need to be 2m high, that sheds are not permanent structures, that a site hut or communal hut is essential, that greenhouses are preferred to polytunnels, that composting toilets and car parking are not essential, and that water and drainage will always require SEPA approval.

Phase 6 development types

3.22 In relation to PDR for **snow sports** a third sector respondent suggested that the SA could include information on other forms of recreation.

Comments on the social and economic baselines

3.1 Specific points raised at Question 2 in relation to the **social baseline** are summarised below.

- Some referred to out of date evidence sources in relation to social impacts.
- It was noted that discussion of recreational and cultural provision is limited to snow sports, and that cultural provision is referenced in the 2019 Planning Act under the 'agent of change'
- It was suggested that the social baseline does not reference the impact of flooding on mental health.
- Some expressed concern that the SA does not refer to potential adverse impacts for outdoor access rights and the paths network.
- In relation to digital communications infrastructure, some individual respondents suggested that the evidence base is incomplete or out of date on the potential health impacts of 5G development.
- In relation to householder developments, a planning authority respondent wished to see the section on householder developments expanded to include information on householder micro-renewables.
- In relation to allotments and community growing schemes, it was suggested that reference to 'cluttered appearance' is a subjective judgement.

3.2 Specific points raised at Question 2 in relation to the **economic baseline** are summarised below.

- Some referred to out of date evidence sources in relation to economic impacts.
- A third sector respondent noted that the economic baseline did not make reference to quality of place, and suggested that this can be an important factor in attracting and retaining people and businesses.
- It was suggested that the economic baseline does not consider the economic impact of flooding for properties, businesses and infrastructure.
- In relation to digital communications infrastructure, some individual respondents suggested that the evidence base was incomplete or out of date on the potential financial costs associated with the health impacts of 5G development.
- In relation to agricultural development, a private sector respondents wished to see more detail on outcomes around agricultural development to facilitate agricultural adaptation and innovation. A planning authority suggested that the SA could refer to examples of farms diversifying into renewables.
- In relation to allotments and community growing schemes, a third sector respondent wished to see reference to the contribution to Scottish Government targets on health, food security and climate change.

4. Predicted effects

- 4.1 The third consultation question sought views on the predicted effects of extending PDR as set out in the SA report. The question was split into three parts, asking for views on predicted (a) environmental, (b) social and (C) economic effects.

Q3. What are your views on the predicted effects set out in the Sustainability Appraisal report as regards:

- a. environmental effects?**
- b. social effects?**
- c. economic effects?**

- 4.2 A total of 81 respondents provided an answer at Question 3, including 45 organisation respondents and 36 individuals. Of these 81 respondents, 13 expressed broad support for the predicted effects set out in the SA, 44 provided comments which criticised aspects of the predicted effects (the majority being individuals, including 16 campaign plus responses), and 24 did not express a clear overall view.
- 4.3 Most of those expressing broad support for the predicted effects set out in the SA raised some issues or concerns; overall, 66 respondents (34 organisations and 32 individuals) raised issues or concerns regarding the predicted effects described in the SA. Table 4 summarises these responses by respondent type.

Table 4: Respondents to Question 3 by type

	Answered Question 3	Raised issues or amendments
ALL RESPONDENTS	81	66
Organisations	45	34
Public sector	12	9
<i>Planning authorities</i>	8	5
<i>Other public bodies</i>	4	4
Planning and other professionals	5	3
Private sector	12	10
<i>Energy supply and/or distribution</i>	5	3
<i>Telecoms</i>	2	2
<i>Rural economy</i>	3	3
<i>Other</i>	2	2
Third sector	16	12
<i>Environment</i>	6	4
<i>Representative bodies/groups</i>	2	1
<i>Campaign groups</i>	2	2
<i>Other</i>	6	5
Individuals	36	32

- 4.4 A range of respondents express their general agreement with the predicted effects described in the SA. This included planning authorities, planning/other professional and third sector respondents.
- 4.5 As Table 4 shows, most of those providing comment at Question 3 raised issues or concerns. The great majority of points raised by these respondents related to the predicted effects of specific development types, and we summarise these over the following pages. However, several common themes were also evident across these responses.
- 4.6 As was the case at Question 2, these common themes and most of the comments on specific development types were raised in relation to environmental effects. Relatively few respondents raised issues related exclusively to social or economic effects. The points considered below therefore relate to environmental effects; we highlight where points were also raised in relation to social and/or economic effects. Points raised exclusively in relation to social and/or economic effects are summarised at the end of this section of the report.

Common themes

- 4.7 These themes were similar to those raised at Question 2, and considered in the previous section of this report. For example, respondents raised concerns regarding what were seen as out of date sources, and to effects on historic and cultural heritage.
- 4.8 A number of respondents raised concerns regarding potential cumulative effects of extending PDR, and felt that further consideration of these effects, and how they can be assessed, is required. Concerns regarding cumulative effects were primarily related to landscape and biodiversity, particularly in designated areas. However, some respondents also referred to potential cumulative effects in relation to flood risk. This was a particular concern in relation to householder developments but is also noted below in relation to other specific development types.
- 4.9 In addition to these issues, some respondents raised concerns regarding how predicted effects are described throughout the SA and associated appendices. This included some suggesting that, where predicted effects are significantly negative, or are uncertain, consideration should be given to whether these development types are suitable for PDR.
- 4.10 Others suggested that greater consistency is required in the language used to ascribe value to predicted effects, and that use of 'reversible' should be better qualified. Some also had difficulty reading between the main SA report and appendices to assess the significance of predicted effects. An other public sector respondent suggested that any such inconsistencies should be addressed in the Post Adoption Statement.

Comments on environmental effects

Phase 1 development types

4.11 Key points raised in relation to PDR for **digital communications infrastructure** are summarised below.

- Some respondents suggested that the negative impacts on natural and cultural heritage could be more significant than is suggested by the SA, if PDR is extended to designated areas without limitations. This included reference to potential for significant effects on undesignated heritage assets, including those within designated areas, and a suggestion that mitigation of these effects should be explored. Reference was also made to the reliance on guidance in ensuring that PDR for digital communications infrastructure does not have significant negative impacts, and noted the need for 'buy in' from stakeholders if this to be effective.
- An other public body suggested that the SA should consider the effects of PDR on the setting of listed buildings and scheduled monuments, including archaeology within these settings.
- Some other public bodies questioned the SA description of negative effects associated with permitting new masts as 'reversible'. This included a suggestion that direct effects, such as on archaeology, are likely to be permanent.
- An other public body noted an inconsistency between Section 5.4 of the SA and Annex 2, in relation to the assessment of negative impacts for soils.
- A planning authority suggested that the SA under-estimates the negative impact of dish antenna in undesignated areas, and noted the cumulative impact of proliferation of dishes.
- A third sector respondent noted that the SA identifies potentially significant biodiversity effects associated with equipment housing cabinets, but does not discuss these effects further.
- A private sector respondent suggested that the SA should consider the wider implications of the Shared Rural Network programme, including the potential to reduce the overall number of sites (while increasing the height of masts).
- Some third sector and individual respondents suggested that the SA does not take sufficient account of environmental associated with development of 5G infrastructure. These respondents referred to environmental impact (including suggested negative impacts on biodiversity) and aesthetic impact.

- A private sector respondent raised concerns around the potential for extension of PDR for digital communications infrastructure to have a negative impact on aviation safety.

4.12 Key points raised in relation to PDR for **agricultural developments** are summarised below.

- A number of public sector and third sector respondents raised concerns regarding the potential for extension of PDR to have significant social and environmental impacts. This included specific reference to the potential impacts of conversion of buildings for residential housing. In contrast, a private sector respondent suggested that the SA had not given sufficient consideration to the potential positive economic impacts of extending PDR to include change of use to residential housing. This included reference to specific evidence on positive economic benefits associated with the home building industry in Scotland.
- Public and third sector respondents suggested that further consideration of the current 400m distance to the curtilage before any relaxation in this requirement is introduced, and raised concerns regarding the impact of polytunnels being more significant and less temporary than is suggested in the SA. This included impacts landscapes, flood risk areas, biodiversity and climate change, and historic heritage. Some planning authorities and other public bodies suggested that the SA was incorrect in describing flood risk as a 'minor negative' effect, and that extension of PDR should exclude flood risk areas. However, some private sector respondents felt that the SA may over-estimate impacts on flood risk. This included a suggestion that this assessment did not take account of mitigation from introducing additional housing stock into the housing system, and questions around whether the SA had considered the application of existing flood management techniques.
- Some third sector respondents saw a need for guidance to support planning authorities in assessing impacts on designated areas, and to ensure natural heritage is protected. These respondents considered that prior notification should be retained for agricultural developments.
- An other public body raised concerns that extending PDR for increase in size of agricultural buildings could have significant negative impacts on biodiversity and climate change, if the increase in size is to intensify livestock production.
- A private sector respondent suggested that the SA had not sufficiently explored the impact of extending PDR in agricultural development regarding brownfield sites.
- A private sector respondent raised concerns about the potential for extension of PDR for agricultural developments to have a negative impact on aviation safety.

4.13 Key points raised in relation to PDR for **micro-renewables** are summarised below.

- Some respondents expressed concerns that care will be required to ensure any further changes to existing PDR for micro-renewables do not have a negative impact on the built or natural heritage. This included suggestions that the SA does not consider potential landscape impacts of free standing domestic turbines, that potential cumulative effects (including in more densely populated areas) were not addressed sufficiently, and that the SA does not recognise potential for new tracks and non-domestic micro-renewables to raise case-specific issues due to the location and sensitivity of surrounding landscapes. Specific suggestions here included updating guidance relating to landscape impact alongside any change in PDR, and for listed buildings and designated areas to be excluded from extension of PDR.
- Some respondents suggested that the SA may over-state the potential adverse impacts of micro-renewables. This included a public sector respondent suggesting that too much emphasis was placed on visual impact, and a private sector respondent suggested that the SA fails to recognise the versatility in design of solar PV panels, and that solar deployment can be less intrusive than some other micro-renewables.
- An other public sector respondent felt that evidence was required to support the assessment of predicted effects to water, social, population and human health as 'negligible'.
- An other public body suggested that the SA should consider the effects of PDR on the setting of listed buildings and scheduled monuments. This included reference to the importance of a clear understanding of the difference between the curtilage and setting of a listed building.
- An other public body suggested that the SA narrative should mention the minor positive effect for WHS as set out in the assessment matrix.
- A private sector respondent raised concerns about the potential for extension of PDR for micro-renewables to have a negative impact on aviation safety, although a private sector respondent suggested that this was based on outdated evidence.
- Some public sector and individual respondents raised concerns regarding extension of PDR for biomass development. This included suggestions that extending PDR for agricultural biomass could have amenity issues, concerns regarding the impact of biomass flues on heritage assets, and reference to potential negative impacts on air quality.

4.14 Key points raised in relation to PDR for **peatland restoration** are summarised below.

- A planning authority noted a small risk that permitted development in the wider area around peatland could cause issues for a holistic planning approach.
- Further detail was requested on how the effects on the historic environment had been found to be minor rather than significant, with an other public body considering these effects to be uncertain.
- An other public body suggested that the peatland restoration technique 'pulling over grass' is not recognised and should be not be included in future advice regarding peatland restoration.
- A third sector respondent suggested that further consideration is required around the need for restrictions on PDR relating to archaeological features and in areas designated for nature conservation.

4.15 In relation to PDR for **hill tracks (private ways)** some third sector respondents suggested that the unpredictability of any adverse landscape and natural heritage effects associated with hill tracks raises questions for their suitability for PDR. It was suggested that, as a minimum, limits should be placed on the location and design of developments and a prior approval mechanism used to ensure some overview of developments in sensitive areas.

Phase 2 development types

4.16 Key points raised in relation to PDR for **electric vehicle charging infrastructure** are summarised below.

- A number of respondents, including planning authorities, raised concerns around the potential effects of installations close to roads and footpaths, including installations outside flatted developments.
- A private sector respondent suggested that the SA overstates the negative environmental effects of EV charging points for non-listed buildings designated areas. It was also suggested that positive environmental impacts associated with EV charging infrastructure is not adequately captured by the SA.
- Clarification was requested on whether effects on undesignated or unknown archaeology had been considered.

4.17 Key points raised in relation to PDR for **active travel** are summarised below.

- Some third sector respondents raised concerns regarding negative environmental and social impacts of extending PDR for active travel. It was suggested that additional local guidance or conditions on PDR would

be required to minimise negative impacts, which would undermine any simplification of the current system associated with PDR.

- An other public body suggested that the detailed SA for active travel (at Appendix 6) is contradictory in places, is inconsistent with the main SA text, and includes impacts which are not substantiated with evidence.
- Further detail was requested on how the effects on the historic environment had been found to be minor rather than significant, particularly in relation to creation of new routes.
- A number of individual respondents suggested that the SA has not fully considered the predicted effects of small cycle sheds and containers, including climate, transport or public health effects.

Phase 3 development types

4.18 Key points raised in relation to PDR for **town centre changes of use** are summarised below.

- Some planning authorities suggested that extending PDR for town centres may have negative impacts on residential amenity associated with noise, air quality, etc. It was also suggested that the SA should consider potential effects on human health as a result of changing vulnerability to flooding associated with change of use.

4.19 Key points raised in relation to PDR for **householder developments** are summarised below.

- Some planning authorities and private sector respondents raised concerns around potential for significant negative impacts on cultural heritage and visual amenity if PDR is extended to Conservation Areas or listed buildings.
- A number of respondents suggested that the SA should consider potential cumulative environmental effects in more detail. This included reference to impacts on drainage and water run-off, flood risk, soils and biodiversity.
- Respondents also raised a range of other concerns regarding the potential impacts of extending PDR, including PDR for small scale porches being misused as a means of building extensions, allowing works higher than the existing roof having significant impacts on visual amenity, that any increase in the area of curtilage buildings permitted should take account of flood risks, and that any removal of the requirement to use porous materials will increase surface water run-off.
- Further detail was requested on how the effects on undesignated buildings were found to be minor rather than significant, with an other public body considering these effects to be uncertain. Clarification was also requested on whether effects on undesignated or unknown

archaeology, and on designated historic assets (and their settings) had been considered.

- An other public body suggested that the SA should consider the effects of PDR on the setting of listed buildings and scheduled monuments. This included reference to the importance of a clear understanding of the difference between the curtilage and setting of a listed building.
- A third sector respondent called for further research with communities on potential impacts before any change to PDR for householder developments.

Phase 4 development types

4.20 Key points raised in relation to PDR for **district heating and supporting infrastructure** are summarised below.

- An other public sector respondent suggested that, as PDR apply only to pipework (and not energy generation or storage centres), effects on air quality are likely to be limited.
- An other public body questioned the SA description of negative effects associated with extending PDR as 'reversible'. This included a suggestion that direct effects, such as on archaeology, are likely to be permanent.

4.21 Key points raised in relation to PDR for **domestic and non-domestic energy storage** are summarised below.

- Some private sector respondents identified additional effects associated with extending PDR for non-domestic storage. These included improving flexibility of the grid (and thus increasing opportunities for carbon reduction).
- A private sector respondent suggested that extension of PDR for domestic storage will encourage more customers to participate in domestic flexibility, and thus contribute to grid decarbonisation.

Phase 5 development types

4.22 Key points raised in relation to PDR for **habitat pond creation** are summarised below.

- A third sector respondent suggested that design guidance would be required to ensure habitat ponds deliver the anticipated positive effects, in particular minimising environmental impacts while maximising biodiversity. The potential positive impacts of habitat ponds were contrasted with agricultural ponds, and respondents suggested that PDR for habitat ponds should not be more restrictive than for agricultural.
- An other public sector respondent suggested that the SA should consider effects on soil as a material asset.

- Further detail was requested on how the effects on the historic environment had been found to be minor rather than significant, with an other public body considering these effects to be uncertain.
- It was suggested that PDR for habitat ponds could have negative effects in relation to flood risk (in addition to the positive effects identified by the SA), for example by embankments or location of ponds in a flood plain increasing flood risks elsewhere.

4.23 Key points raised in relation to PDR for **allotments and community growing schemes** are summarised below.

- An other public sector respondent wished to see consideration of potential effects on human health in relation to flooding, including in relation to secondary, cumulative and synergistic effects.
- A planning authority suggested that development of allotments and community growing spaces can have negative impacts on existing pathways and land used for recreation.
- An other public body requested clarification on whether effects on undesignated or unknown archaeology had been considered.

Phase 6 development types

4.24 Key points raised in relation to PDR for **snow sports** are summarised below.

- A planning authority suggested that extending PDR for snow sports could lead to significant environmental impacts in relation to biodiversity, landscape, pollution and water quality. It was suggested that these should be considered as part of a formal planning application.
- An other public body noted that the SA reference to PDR for access tracks that do not exceed 50m in length is not outlined in Planning Circular 2/2015.

Comments on social and economic effects

4.1 Specific points raised at Question 3 in relation to **social effects** are summarised below.

- Respondents questioned on the extent to which the SA had considered mental health impacts associated with increased flooding risk.
- Some third sector and individual respondents raised concerns regarding the potential for PDR to undermine local community and authority influence on planning. This included reference to PDR contradicting the principle of a 'plan-led' approach to development, to removing the ability of local communities to influence decisions affecting their local area, and reducing planning authority income.

- In relation to digital communications infrastructure, a private sector respondent suggested that the SA understates potential social benefits. This included reference to connectivity with emergency and rescue services, social inclusion, supporting delivery of public services, and the sustainability of rural communities. Some third sector and individual respondents suggested that the SA does not take sufficient account of health concerns associated with development of 5G infrastructure.
- in relation to agricultural developments, a third sector respondent suggested that extending PDR for change of use of agricultural buildings to residential housing is not consistent with a plan-led approach to delivery of new housing, and could place greater pressure on rural services and infrastructure. A public sector respondent suggested that conversion to housing should be excluded from PDR, raising concerns around standards of accommodation and impact on privacy and amenity. In contrast, some private sector respondents suggested that the SA did not give sufficient consideration to the positive social effects of extending PDR for agricultural developments in terms of improving existing housing for farming families and local communities and supporting farm succession.
- In relation to active travel, some were concerned that extending PDR could lead to delivery of lower quality active travel developments that may not work for all users, and will not deliver increased use of active travel. A planning authority suggested that any extension of PDR for active travel should ensure development is inclusive of all potential users, regardless of access to other transport modes.
- In relation to town centre changes of use, a planning authority expressed concern that unregulated conversion to residential use could lead to substandard accommodation.
- In relation to householder developments, a private sector respondent raised concerns that extending PDR for householder development could reduce opportunities for local planning authorities to require heat decarbonisation and energy efficiency upgrades.
- In relation to allotments and community growing schemes, It was suggested that controls may be required to ensure PDR does not lead to proliferation of buildings on allotments, negatively impacting on amenity.

4.2 Specific points raised at Question 3 in relation to **economic effects** are summarised below.

- Respondents questioned on the extent to which the SA had considered potential financial and mental health impacts of increased flooding risk.
- In relation to agricultural developments, some private sector respondents suggested that the SA did not give sufficient consideration to positive economic effects in terms of delivery of housing and supporting farm succession
- In relation to town centre changes of use, several respondents raised concerns that extending PDR for town centres may undermine plan-led approaches to town centre regeneration, suggesting that a coordinated and collaborative approach has been shown to be more effective in improving the economic and social viability of town centres.
- In relation to domestic and non-domestic energy storage, some private sector respondents referred to positive economic effects in terms of encouraging investment in battery storage.

5. Mitigation and monitoring

- 5.1 The fourth consultation question sought views on the proposals for mitigating and monitoring the predicted effects of extending PDR, as set out in the SA report. The question was split into three parts, asking for views on mitigation and monitoring with regard to (a) environmental matters, (b) social matters and (C) economic matters.

Q4. What are your views on the findings and the proposals for mitigation and monitoring of effects set out in the Sustainability Appraisal report with regard to:

- a. environmental matters?**
- b. social matters?**
- c. economic matters?**

- 5.2 A total of 75 respondents provided an answer at Question 4, including 40 organisation respondents and 35 individuals. Of these 75 respondents, 6 expressed broad support for mitigation and monitoring proposals, 23 provided comments which criticised aspects of mitigation and monitoring, and 46 did not express a clear overall view.
- 5.3 Most of those expressing broad support for the proposals raised some issues or concerns; overall, 32 respondents (25 organisations and 7 individuals) raised issues or concerns regarding the predicted effects described in the SA. Table 5 summarises these responses by respondent type.

Table 5: Respondents to Question 4 by type

	Answered Question 4	Raised issues or amendments
ALL RESPONDENTS	75	32 (43%)
Organisations	40	25 (63%)
Public sector	12	11
<i>Planning authorities</i>	8	7
<i>Other public bodies</i>	4	4
Planning and other professionals	4	1
Private sector	11	6
<i>Energy supply and/or distribution</i>	4	3
<i>Telecoms</i>	2	2
<i>Rural economy</i>	3	0
Other	2	1
Third sector	13	7
<i>Environment</i>	7	3
<i>Representative bodies/groups</i>	2	1
<i>Campaign groups</i>	1	1
<i>Other</i>	3	2
Individuals	35	7 (20%)

- 5.1 Some respondents, including planning/other professionals and private sector respondents, expressed their general agreement with proposals for mitigation and monitoring. However, as Table 4 shows, a substantial proportion of those providing comment at Question 4 raised issues or suggested amendments to proposals. These issues were typically related to mitigation and monitoring for specific development types, and we summarise these over the following pages.
- 5.2 As is noted in relation to Questions 2 and 3, comments on specific development types and other common issues were raised primarily in relation to mitigation of environmental effects. The points considered below therefore relate to mitigation of environmental effects; we highlight where points were also raised in relation to social and/or economic effects. Points raised exclusively in relation to mitigation of social and/or economic effects are summarised at the end of this section of the report.

Common themes

- 5.3 Some common themes were evident. This included a number of the themes discussed earlier at Questions 2 and 3 such as monitoring cumulative impact, mitigating effects on cultural heritage and mitigation proposals for environmental impact. This included concerns regarding the lack of mitigation proposals to address increased flood risk. However, respondents also raised general issues and concerns regarding proposals for mitigation and monitoring which did not relate to specific development types.
- 5.4 Some respondents, including other public bodies, felt that information provided on mitigation proposals was very limited and incomplete. Some also noted that proposals did not include detail on implementation mechanisms, which were seen as a key factor in the effectiveness of proposals. It was suggested that mitigation mechanisms should be outlined more comprehensively in the Post Adoption Statement, and should remain a key aspect of discussions for individual work streams.
- 5.5 Similar concerns were raised in relation to proposals for monitoring, which were also described as limited and incomplete. This included comments from planning authorities, other public bodies and third sector respondents. It was suggested that the SA as a minimum should indicate how existing monitoring regimes could contribute to monitoring the effects of PDR. Some respondents again suggested that further detail should be included in the Post Adoption Statement.
- 5.6 Respondents also expressed some concerns regarding what was seen as over-reliance on good practice guidance to mitigate the effects of PDR. Some planning authorities suggested that good practice could have limited mitigation benefits if it cannot be implemented or enforced, although other respondents suggested specific aspects of good practice guidance as having a potential role in the approach to mitigation.

- 5.7 Concerns were also raised regarding the potential benefits of prior notification/approval as a means of mitigating the effects of extending PDR. This included suggestions that this 'intermediate' approach may cause confusion for applicants, and can undermine the benefits of extending PDR in relation to streamlining the planning process and reducing burden on planning authorities. Some third sector respondents referred evidence from monitoring use of the new prior notification process as having highlighted issues with this approach.

Comments on mitigation of environmental effects

Phase 1 development types

- 5.8 Key points raised in relation to PDR for **digital communications infrastructure** are summarised below.

- Some planning authorities raised concerns regarding extending prior notification/approval schemes, and suggested that these would not streamline the process nor reduce the time spent on applications.
- A planning authority expressed concern that good practice guidance is not sufficient to mitigate negative effects.
- An other public sector respondent suggested that a requirement for assessment of visual impacts, as a condition of prior notification/approval, would be of limited use as direct physical impacts are unlikely to be captured.
- A third sector respondent suggested that consultation with operators is required to assess whether higher masts outside designated areas would lead to fewer masts in designated areas, and to develop guidance on potential reductions.
- An individual respondent raised concerns that mitigation proposals give the telecommunication industry too much scope regarding antenna height.
- Some third sector and individual respondents suggested that concerns regarding 5G digital communications infrastructure cannot be mitigated, and that alternative wired and fibre optic technology should be preferred.

- 5.9 Key points raised in relation to PDR for **agricultural developments** are summarised below.

- A number of planning authorities raised concerns in relation to proposals for mitigation of effects associated with extension of PDR to allow conversion of agricultural buildings for residential use. This included suggestions that planning authorities often add considerable value to these planning applications, and concerns that design guidance is unlikely to be sufficient to mitigate adverse impacts due to inappropriate development. Some stated their objection to extension of PDR for this type of development.

- An other public sector respondent recommended that mitigation measures are identified to address potential effects on the historic environment.
- A third sector respondent expressed concern that no mitigation is proposed for uncontrolled development, which was described as having potential to have significant impacts on valued landscape areas.
- A planning/other professional suggested that assessment for bats should be required for conversion of steadings to mitigate environmental effects.

5.10 Key points raised in relation to PDR for **micro-renewables** are summarised below.

- Concerns raised by respondents included a perceived need for guidance regarding orientation of buildings and impact on roofscape, a potential need for PDR to be more limited in some rural areas to avoid negative environmental impact, and concerns regarding potential for increased deployment of micro-renewables to have a cumulative impact (e.g. on residential amenity or biodiversity). An other public sector respondent noted that mitigation measures have not been identified for negative effects on cultural heritage. It was also suggested that the SA could include a greater focus on potential mitigation of cumulative impact beyond 'heritage' sites, for example through requirement for a specific assessment to support a prior notification submission.
- Some raised concerns regarding proposals for a prior notification/approval scheme to mitigate the effects of PDR for designated areas, and suggested that this approach could limit the benefits of extending PDR in terms of streamlining the planning process. A planning authority suggested there should be scope for limited relaxation of planning controls within designated areas without the need for a prior notification/approval scheme.
- A public body respondent suggested that 'reasonable alternatives' presented should include other incentives to increase deployment of micro-renewables that do not involve extension of PDR.
- A public body objected to extending PDR for biomass due to impacts on amenity.
- A third sector respondent saw a need for greater clarity on size limits for PDR for non-domestic solar, and that there is no relaxation of controls in designated areas and wild land areas.

5.11 Key points raised in relation to PDR for **peatland restoration** are summarised below.

- A planning authority suggested that a precautionary principle should still be applied, and some control retained via a requirement for assessment of impact for the wider ecosystem. It was also suggested that restrictions

should apply to all developments (including those outwith designated areas) with a potential negative impact on important habitat or species.

- An other public sector respondent noted that proposals for mitigation are focused on designated historic environment assets, and wished to see proposals extended to address effects on undesignated or unknown assets, including archaeology.

5.12 In relation to PDR for **hill tracks (private ways)**, improvements to the current prior notification and approval system for hill tracks were suggested. This included clearer guidance on the distinction between 'maintenance' and 'alteration' to hill tracks, the potential value of local or national guidance on construction of hill tracks, and changes to ensure the 28-day target for handling applications is met. Some third sector respondents suggested that the approach to PDR for hill tracks, and associated mitigation, should use learning from monitoring of current PDR for hill tracks.

Phase 2 development types

5.13 Key points raised in relation to PDR for **electric vehicle charging infrastructure** are summarised below.

- A private sector respondent suggested that additional strain on the grid associated with extending PDR for EV charging points could be mitigated through co-location of solar PV energy generation, and use of energy storage.
- A planning authority and a private sector respondent suggested that PDR for EV charging infrastructure should be extended to unlisted buildings in heritage, cultural and landscape designations. This included a suggestion for mitigation by a prior approval scheme.
- An other public sector respondent suggested that mitigation proposals would not address effects on the setting of listed buildings.

5.14 In relation to PDR for **active travel** an other public sector respondent noted that mitigation measures were not proposed to address negative effects the historic environment.

Phase 3 development types

5.15 Key points raised in relation to PDR for **town centre changes of use** are summarised below.

- A planning authority questioned extending PDR to include general industrial and storage and distribution use classes for town centres, and suggested that PDR should be extended to enable change from Class 1 or 2 to other appropriate classes.

- An other public sector respondent noted that mitigation measures have not been identified in relation to effects as a result of town centres change of use.

5.16 Key points raised in relation to PDR for **householder developments** are summarised below.

- Some planning authorities suggested that prior notification and neighbour consultation is unlikely to streamline current processes, and may not necessarily ensure a good standard of development. It was also suggested that a prior notification scheme for fences over 2m may encourage development of a kind that is rarely acceptable.
- A private sector respondent raised concerns that the SA does not include mitigation proposals to address potential increase in flood risk, and wished to see robust conditions and adequate monitoring and enforcement powers as part of the PDR review. This included reference to conditions to take into account the cumulative and synergistic effect of extending PDR.
- An other public sector respondent felt that it was unclear how mitigation proposals would address effects on the setting of designated heritage assets.

Phase 4 development types

5.17 In relation to PDR for **district heating and supporting infrastructure** an other public sector respondent noted that proposals for mitigation are focused on designated historic environment assets, and wished to see proposals extended to address effects on undesignated or unknown assets, including archaeology.

5.18 In relation to PDR for **domestic and non-domestic energy storage** an other public sector respondent wished to see proposals extended to address effects on undesignated or unknown assets, including archaeology.

5.19 In relation to PDR for **defibrillator cabinets** a planning authority suggested that in the great majority of cases, installation of defibrillator cabinets is 'de minimis', and did not support a prior notification process for this development type.

Phase 5 development types

5.20 Key points raised in relation to PDR for **habitat pond creation** are summarised below.

- An other public sector respondent noted that proposals for mitigation are focused on designated historic environment assets, and wished to see proposals extended to address effects on undesignated or unknown assets, including archaeology.

- A third sector respondent suggested that guidance on size and design of habitat ponds could also include sensitivity to characteristics of setting.

5.21 In relation to PDR for **allotments and community growing schemes** a planning authority disagreed with the suggestion in the SA that existing PDR for portable buildings could apply to allotments, and argued that development on allotments is more comparable with domestic garden sheds, greenhouses, etc.

Phase 6 development types

5.22 In relation to PDR for **snow sports** a planning authority expressed concern that reliance on good practice guidance would be insufficient to prevent inappropriate development in sensitive areas.

Comments on the social and economic effects

5.23 Specific points raised at Question 4 in relation to **mitigation of social effects** are summarised below.

- In relation to agricultural developments, it was noted that the SA includes little reference to mitigation of impact on a plan-led system and provision of public services.
- In relation to micro-renewables, it was suggested that prior notification submissions may need to include a supporting assessment of impacts on the host community.

5.24 Specific points raised at Question 4 in relation to **mitigation of economic effects** are summarised below.

- Some respondents noted that they did not anticipate significant negative economic impacts that would require mitigation.

6. Other comments

- 6.1 The final consultation question invited respondents to provide any other comments on the SA report.

Q5. Do you have any other comments on the Sustainability Appraisal report?

- 6.2 A total of 58 respondents addressed Question 5. Table 6 summarises these responses by respondent type.

Table 6: Respondents to Question 5 by type

	Answered Question 5
ALL RESPONDENTS	58
Organisations	31
Public sector	7
<i>Planning authorities</i>	4
<i>Other public bodies</i>	3
Planning and other professionals	2
Private sector	9
<i>Energy supply and/or distribution</i>	3
<i>Telecoms</i>	0
<i>Rural economy</i>	3
Other	3
Third sector	13
<i>Environment</i>	6
<i>Representative bodies/groups</i>	2
<i>Campaign groups</i>	2
<i>Other</i>	3
Individuals	27

- 6.3 Most of these respondents used Question 5 as an opportunity to reiterate points discussed earlier in relation to specific development types, or common themes. This included specific reference to consideration of cumulative impact (particularly on flood risk), effects on cultural heritage, and environmental impact for biodiversity and flooding.
- 6.4 Some of those providing comment at Question 5 raised other issues which had not been fully considered in relation to Questions 1 to 4. These are summarised below.
- Some suggested that if the overall approach to extending PDR is to deliver the expected benefits, it should result in consolidated legislation and guidance. This included specific reference to the opportunity to review

the current prior notification/approval scheme to streamline the process, with a planning authority recommending a simplified one-stage prior approval procedure.

- Some referred to general principles that should shape consideration of which development types are suitable for PDR. This included reference to the potential need to limit PDR for development types where predicted effects are expected to be significantly negative, or where effects are unclear. This reflected wider comments regarding the degree of uncertainty in the SA evidence base, and concern that this should not be interpreted as there being no significant effects.
- Several respondents highlighted the importance of ongoing consideration of issues raised by the SA, including more detailed mitigation and monitoring proposals, as part of the proposed work programme. This included a number of respondents specifically expressing interest in ongoing engagement with the Scottish Government as part of this process.
- Reference was made to specific policy priorities or objectives which respondents felt should be acknowledged by the SA. This included sustainable development, the purpose of planning as set out in the 2019 Planning Act, and the National Performance Framework.
- A third sector respondent also suggested that a principle of net biodiversity gain may be appropriate as a condition for developments benefiting from PDR.
- Some respondents questioned the use of a SA as opposed to a standalone Strategic Environmental Assessment (SEA). This included suggestions that integration of SEA findings into the SA report narrative made it difficult for readers to track the full range of complex environmental considerations through the SA.

Annex A Organisations responding to the consultation

Planning authority

Aberdeen City Council
 Aberdeenshire Council
 Comhairle nan Eilean Siar
 East Renfrewshire Council
 Glasgow City Council
 Loch Lomond and The Trossachs National Park
 Moray Council
 North Lanarkshire Council
 Perth & Kinross Council
 The City of Edinburgh Council
 The Highland Council

Other public bodies

Energy Saving Trust
 Historic Environment Scotland
 Scottish Environment Protection Agency
 Scottish Natural Heritage
 The Metropolitan Glasgow Strategic Drainage Partnership

Planning and other professionals

ALGAO Scotland (Association of Local Government Archaeological Officers)
 Chartered Institute for Archaeologists
 Heads of Planning Scotland
 Law Society Of Scotland
 RTPi Scotland

Private sector - energy

Association for Decentralised Energy
 European Marine Energy Centre
 Renewable energy solutions (RES)
 ScottishPower Renewables
 Solar Trade Association
 Vattenfall

Private sector - telecoms

Arqiva Ltd
 BT Group
 Hutchison 3G Ltd
 Mobile UK

Private sector - rural economy

Central Association of Agricultural Valuers, Scottish Agricultural Arbiters and Valuers Association
 Confor
 NFU Scotland
 Scottish Land and Estates
 Wemyss & March Estate

Private sector - other

AGS Airports
 Highlands and Islands Airports Limited (HIAL)
 Homes for Scotland
 Scottish Water

Third sector - environment

Mountaineering Scotland
 North East Mountain Trust
 RSPB Scotland
 Scottish Allotments and Gardens Society (SAGS)
 Scottish Environment Link
 Scottish Environment LINK Hill tracks sub group
 SOAN (Scottish Outdoor Access Network)
 The John Muir Trust

Third sector - representative bodies/groups

Meldrum, Bourite and Daviot Community Council
 Scone and District Community Council

Third sector - campaign groups

Moray Campaign against 5G
 Paths for All
 Spokes, the Lothian Cycle Campaign

Third sector - other

BEFS (Built Environment Forum Scotland)
 Cycling Scotland
 Planning Democracy
 Rural Housing Scotland
 Social Farms and Gardens
 Sustrans Scotland
 The National Trust for Scotland
 Theatres Trust

Annex B Acronyms used

EIR	Environmental Impact Ratings
EPC	Energy Performance Certificate
EV	Electric vehicle
GPDO	General Permitted Development (Scotland) Order
HOPS	Heads of Planning Scotland
LDP	Local Development Plan
LHEES	Local Heat and Energy Efficiency Strategy
NPF	National Planning Framework
PAS	Post Adoption Statement
PDR	Permitted Development Rights
PV	Photovoltaic
SA	Sustainability Appraisal
SEA	Strategic Environmental Assessment
WHS	World Heritage Sites



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ARGYLL AND BUTE COUNCIL
Development & Economic Growth

PPSL
18th November 2020

RELAXATION OF PLANNING ENFORCEMENT IN RESPONSE TO COVID-19

1.0 EXECUTIVE SUMMARY

1.1 This report seeks approval for an addendum to the Council's Enforcement & Monitoring Charter which would provide clarity to officers, complainants, and land owners of the weighting that Covid-19 and its relevance to the unauthorised development will be afforded in the setting timescales and the processes that will be followed when seeking to resolve a breach of planning control.

1.2 It is recommended that PPSL:

- i) Note the guidance provided by the Scottish Government's Chief Planner on relaxation of planning enforcement in response to Covid-19.
- ii) Note that the Planning Position Statement (Appendix A), setting out previously approved relaxation of planning controls within town centres will now remain in force until 31st March 2021 (following approval by the Council's Leadership Group on 29th October 2020).
- iii) Approve the proposed addendum to the Enforcement & Monitoring Charter (Appendix B) for a temporary period expiring 31st March 2021, subject to periodic review in the event of updated guidance being provided by the Scottish Government.

ARGYLL AND BUTE COUNCIL**PPSL****Development & Economic Growth****18th November 2020**

RELAXATION OF PLANNING ENFORCEMENT IN RESPONSE TO COVID-19

2.0 INTRODUCTION

- 2.1 It is recognised that the extraordinary circumstances have given rise to a situation where the individuals and businesses may require to take rapid action in order to respond to restrictions. This can in some cases give rise to unintentional or deliberate breaches of planning control where development requires to be undertaken immediately in response to rapidly changing circumstances.
- 2.2 The Scottish Government has previously provided guidance on relaxation planning enforcement in relation to specific activities that were expected to be undertaken in response to the evolving Covid-19 pandemic and restrictions imposed upon 'normal' business operations.
- 2.3 The Council has also sought to support businesses through this challenging period and recognises that the inherent time periods built into the planning process to facilitate engagement and transparency are not always capable of being aligned with the rapid pace of change seen over recent months.
- 2.4 It is also identified that failure to address breaches of planning control at the current time may give rise to longer-term issue in relation to the management of development, and/or customer satisfaction, particularly where an unauthorised development is subject of a complaint from a neighbour who would ordinarily have had opportunity to comment on the acceptability or otherwise of the unauthorised development if a planning application had been submitted. In order to ensure consistency of approach it is proposed that the Enforcement & Monitoring Charter be amended to include an additional process which seeks to identify if the unauthorised development has been progressed in response to Covid-19 restrictions, and where this is established set out expectations on how such a matter will be resolved.

3.0 RECOMMENDATIONS**3.1.1 It is recommended that PPSL:**

- i) Note the guidance provided by the Scottish Government's Chief Planner on relaxation of planning enforcement in response to Covid-19.
- ii) Note that the Planning Position Statement (Appendix A), setting out previously approved relaxation of planning controls within town centres will now remain in force until 31st March 2021 (following approval by the

Council's Leadership Group on 29th October 2020).

- iii) Approve the proposed addendum to the Enforcement & Monitoring Charter (Appendix B) for a temporary period expiring 31st March 2021, subject to periodic review in the event of updated guidance being provided by the Scottish Government.

4.0 DETAIL

- 4.1 The Scottish Government has issued advice that planning authorities should take a "common sense approach to enforcement, with actions proportionate to the severity of suspected breaches of planning control". The Scottish Government's Chief Planner has issued further instruction setting out guidance for relaxation of planning enforcement on identified activities that may give rise to a breach of planning control as businesses responded initially to 'lockdown' restrictions arising from Covid, and then subsequently as they adapted to a new operating environment as restrictions were initially eased.

Summary of Scottish Government Chief Planner's Guidance on Planning Enforcement Relaxations:		
Date Issued	Scope/Activity Covered	Expires:
11 th March 2020 (updated 16 th June 2020)	<u>Relaxation of enforcement of conditions relating to retail distribution</u>	To be reviewed September 2020
18 th March 2020 (updated 16 th June 2020)	<u>Relaxation of enforcement where public houses and restaurants offer a takeaway service during the current outbreak</u>	To be reviewed September 2020
29 th May 2020	<u>Relaxation of enforcement in relation to hours of operation on construction sites; and in relation to changing business practices during physical distancing restrictions</u>	Remove when physical distancing restrictions no longer apply.
2 nd July 2020	<u>Relaxation of enforcement in relation to 28 day rule on temporary uses</u>	To be reviewed September 2020, to be withdrawn when physical distancing is no longer required.

Supporting Town Centre Economic Recovery in Argyll and Bute

- 4.2 During Summer 2020. Development Management have participated in the Council's Easing of Lockdown working group which has had a focus on providing support to the recovery of town centre business activity as the initial 'lockdown' measures were eased, and includes a variety of internal and external stakeholders. It was identified at an early stage that proposals to utilise town centre spaces to provide outdoor eating/drinking facilities would give rise to breaches of planning control in many cases, and as such had potential to be

problematic to licencing activity necessary to regulate this function. In response to this concern officers prepared an update for the Council's Strategic Group (paper attached as Appendix A) setting out a formal relaxation of planning enforcement activity which was approved in 29th July 2020. The position statement (set out below for reference) has provided certainty that has allowed temporary outdoor eating/drinking areas to be created without the requirement for planning permission and has facilitated related licencing activity.

*“For a temporary period up until **30th September 2020** Argyll and Bute Council as planning authority will not invite applications for planning permission or pursue planning enforcement action for development providing for the temporary change of use of outdoor areas and/or erection of temporary structures within the designated Town Centre areas of the Main Towns and Key Settlements (as defined in the adopted LDP) which are intended to provide on-street seating for existing cafes, bars, beer gardens and similar to accommodate physical distancing in relation to the resumption of operations in town centre businesses subject to the appropriate authorisations being obtained from Environmental Health, Licensing and Roads Authorities.*

Following the expiry of the defined temporary period, or any subsequently prescribed extension of this period, all temporary uses shall require to be discontinued, temporary structures removed, and the land restored to its former condition unless express planning permission has been sought and obtained in the intervening period.

The installation of any permanent or semi-permanent structures or alterations to the public realm are not supported by these temporary measures and shall require the benefit of express planning permission in advance of works commencing.”

- 4.3 The Planning Position statement was initially aligned to the time period provided in the Scottish Government Chief Planner's letter of 2nd July 2020 which indicated that a review of the requirement for this planning enforcement relaxation would be undertaken in September 2020. No formal update has yet been provided on this matter by the Scottish Government although, when enquiries were made, it has been indicated that the advice remains in force. Given the ongoing requirement for engagement with licencing activity as businesses react to the current fluid situation approval was sought and secured from the Council's Leadership Group on 29th October 2020 to extend the period covered by the Planning Position statement up until 31st March 2021. This extended period is in alignment with the 'emergency period' current defined by the Scottish Government in unrelated provisions of the Coronavirus (Scotland) Act 2020, although this could be reviewed earlier in the event that the requirement for physical distancing is no longer required.

- 4.4 Whilst the Planning Position statement has provided greater certainty to support specific town centre activities it is noted this does not address planning enforcement issues within the wider Council area where there is a customer expectation set out in the Charter that complaints will be investigated and progressed in a timely manner. In some instances, these complaints will also relate to development outwith designated town centres that has required to have been undertaken in direct response to the extraordinary circumstances arising from Covid-19 restrictions and are necessary to facilitate business continuity/survival in these challenging times.
- 4.5 Given the potential conflict between the expectation that the Council will act to resolve breaches of planning control and the challenges created by current circumstances it is recommended that the PPSL approve the addendum to the Planning Enforcement Charter set out in Appendix B. The objective of the addendum is to provide clarity for all parties that the Council will continue to investigate, record and potentially take action where necessary in respect of unauthorised development even where this relates to development arising in response to Covid. It will however also be made clear that where there is a genuine requirement for the development in response to the circumstances arising from Covid-19 that the Council will have due regard to this in deciding the most appropriate means to address the breach of control in both the short, and longer term. Where unauthorised development gives rise to serious short-term adverse effects upon public health and/or safety, significant irreversible environmental harm then it would remain appropriate to seek swift resolution. Where no such harm arises, it may still be appropriate to proceed with formal action, however the addendum clarifies that time periods for compliance should be aligned to the circumstances of the development to support individuals and businesses as they respond to Covid-19.

5.0 CONCLUSION

- 5.1 The recommendations set out proposals that will provide sufficient certainty to ensure that the Development Management Service can remain fully engaged in support for other regulatory activity of the Council which supports town centre recovery, and sets out an addendum to existing protocol for the resolution of planning enforcement matters that will assist in consistency of application and management of expectations for both complainants, and land owners that the Council will take a common sense approach to enforcement where the requirement for the development has arisen as a result of a response to Covid-19.

6.0 IMPLICATIONS

- 6.1 Policy - None
- 6.2 Financial - None
- 6.3 Legal - None
- 6.4 HR - None
- 6.5 Fairer Scotland Duty: - None
- 6.5.1 Equalities - protected characteristics - None
- 6.5.2 Socio-economic Duty – Positive impact through support for business activity

as it responds to Covid-19

6.5.3 Islands - None

6.6. Risk - None

6.7 Customer Service – Positive impact through management of customer expectations.

Executive Director of Development & Economic Growth - Kirsty Flanagan

Policy Lead David Kinniburgh

5th November 2020

For further information contact: Peter Bain – 01546 604204

APPENDICES

Appendix A – Previous report to Strategic Group July 2020

Appendix B – Proposed Addendum to Planning Enforcement Charter

Appendix A

Temporary Relaxation of Town Planning Controls to Support Economic Growth 21.07.20

Please identify any service issues that require resolution with regards to the COVID 19 crisis.

Development Management:

The relaxation of lockdown and progressive implementation of the Scottish Government's road map to recovery allowing for the resumption of commercial activities in town centres gives rise to potential conflict for the Council in its regulation of activities that require planning permission where existing businesses require to expand/adapt their operations in the short term to address constraints on operation arising from social distancing requirements.

The regulations governing the planning application process are defined in a manner which seek to facilitate engagement and as such cannot readily be adapted to provide a fast-track consent process to support the urgent short-term requirements for new temporary uses of town centre land and temporary structures within the time period required by businesses in the current, extraordinary circumstances.

The Scottish Government have also recognised that the planning process is a potential constraint on the resumption of economic activity within town centres and has issued advice via their Chief Planning Officer confirming "*that the most appropriate, straightforward and efficient means of ensuring that the planning process can allow for reasonable temporary changes of use is through informally relaxing planning controls; particularly by agreeing not to take enforcement action against acceptable breaches that will allow for businesses to operate and for some normality to return.*"

It is advised that the Development Management Service welcomes the guidance provided by the Scottish Government on this matter and has sought to work proactively with other Services, including Licencing, Roads, and Environmental Health in their establishment of a 'fast track' consent process to facilitate resumption of business activity in town centres. In responding to these consultations it has however become evident that, in the absence of confirmation of the Council policy position on the implementation of local relaxation of planning control it is difficult for officers to provide clear, consistent and professionally competent advice to businesses, consultees or complainants on the extent that planning relaxations apply or effectively sanction unauthorised development.

In order to provide Development Management Officers with a clear mandate to apply a relaxation of planning controls in the short term it is recommended that the Council adopt the following Planning Position:

*“For a temporary period up until **30th September 2020** Argyll and Bute Council as planning authority will not invite applications for planning permission or pursue planning enforcement action for development providing for the temporary change of use of outdoor areas and/or erection of temporary structures within the designated Town Centre areas of the Main Towns and Key Settlements (as defined in the adopted LDP) which are intended to provide on-street seating for existing cafes, bars, beer gardens and similar to accommodate physical distancing in relation to the resumption of operations in town centre businesses subject to the appropriate authorisations being obtained from Environmental Health, Licencing and Roads Authorities.*

Following the expiry of the defined temporary period, or any subsequently prescribed extension of this period, all temporary uses shall require to be discontinued, temporary structures removed, and the land restored to its former condition unless express planning permission has been sought and obtained in the intervening period.

The installation of any permanent or semi-permanent structures or alterations to the public realm are not supported by these temporary measures and shall require the benefit of express planning permission in advance of works commencing.”

2 Please identify service disruptions or potential closures? - None

3 State any recommendations you have for service suspensions.

Suspension of planning enforcement until **30th September 2020** in respect of unauthorised temporary change of use of outdoor areas/temporary structures within the designated town centres of Main Towns and Key Settlements where appropriate authorisations have been obtained from Roads, Licencing and Environmental Health.

Fergus Murray – Head of Development and Economic Growth

