

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 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 an 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.

Q.57. 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 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.