

## **Business and Regulatory Impact Assessment**

### **Title of Proposal**

**The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2014**

### **Purpose and intended effect Objectives**

The Scottish Government's aim is to have a proportionate, efficient and effective planning system in place that helps to meet the overall objective of increasing sustainable economic growth. Part of this is ensuring that we have an appropriate level of planning control on developments, in particular that we do not require applications for planning permission unnecessarily. The purpose of this consultation is to identify the priorities for work in the ongoing review of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (the GPDO). The GPDO grants a general planning permission across Scotland for a variety of developments which removes the need to apply for planning permission. This permission is often referred to as permitted development rights (PDR) and is subject to certain limitations and conditions.

The amendments to the GPDO set out various extensions and amendments to existing classes to bring them up to date. We are also creating a number of new classes to introduce permitted development rights for small scale extensions to various non-domestic buildings and for off road charging points for electric vehicles. There are a number of changes to Class 67 in respect of telecommunications equipment.

### **Background**

When the Planning etc. (Scotland) Bill was introduced in 2005 the Scottish Government undertook work to begin a review of the GPDO. To this end the Scottish Government undertook consultation on a number of detailed proposals to amend the GPDO and introduce certain new classes of permitted development

### **Rationale for Government Intervention**

As part of the programme of modernisation of the planning system we should consider whether the PDR and related mechanisms in general are up to date and fit for purpose.

## **Consultation**

- **Within Government**

The Directorate for the Built Environment has consulted with colleagues in Scottish Government Legal Directorate.

- **Public Consultation**

The draft regulations were subject to public consultation in 2012. A total of 179 responses were received. The draft regulations were reviewed and a number of changes made to reflect comments received.

A further consultation was undertaken earlier this year focussing specifically on changes to Class 67 relating to permitted development rights for telecommunications equipment.

- **Business**

The public consultations included draft Regulatory Impact Assessments (RIA) and invited comments.

Comments in response to the 2012 consultation were received from business interests and representative bodies including Homes for Scotland, Scottish Property Federation, Scottish Renewables, Walker Group (Scotland) Ltd, ASDA, Forth Ports PLC, Sainsburys and the Mobile Operators Association.

In relation to the 2014 consultation comments were received from various industry sources including; Arqiva, EE, the Mobile Operators Association and BT.

Comments have been incorporated into this BRIA.

## **Options**

### **Option 1 – Do nothing**

**Option 2 – Implement the proposed amendments and new classes to the GPDO. Responses to the public consultation clearly demonstrate that this is the preferred option, particularly amongst business respondents.**

### **Sectors and groups affected**

Permitted development rights mainly affect developers, landowners, community groups and planning authorities. Landowners and developers may include individual persons as well as business interests.

### **Benefits**

The benefit of permitted development rights are that for small, noncontroversial developments there is no need to go through the planning system, thus reducing both the potential cost and the timescales of any such development. For business interests there is greater certainty that planned development of premises and facilities can proceed, and for planning authorities there is a freeing up of resources from having to deal with less applications.

## **Costs**

Generally the proposals will extend existing PDR or create new PDR, therefore there would appear to be minimal scope for increasing costs as a result of the legislation. It has been suggested that, certainly initially, there may be some costs to business in ascertaining whether or not development is permitted or not, however compared to the costs of preparing a full application these will be lower and such costs will naturally fall away as developers become familiar with the changes.

There is potential that a developer may incur costs and damage to their business if they inadvertently carry out work which subsequently transpires not to benefit from PDR. Such costs would primarily be associated with complying with planning enforcement. However, we consider that the risk of this is quite low and will fall as developers become familiar with the changes to PDR. It has also been suggested that there may be increased costs for planning authorities in monitoring developments to check whether or not they are indeed permitted development. There will always be an element of enforcement monitoring around the boundaries of PDR regardless of where these are set. While changes to the system may result in increased inquiries and monitoring for a period, we are of the view that in the long term there will be no net increase in enforcement costs for planning authorities.

Responses to the consultation indicated that the majority of respondents consider the potential benefits of the proposed legislative changes outweigh the costs and will encourage development.

Costs by sector;

**Developers** – costs might be incurred for work carried out to ascertain whether or not development was permitted. Also potential costs associated with consents under other regimes, although this is not strictly a cost associated with the planning regime. These would not necessarily be new costs as such work would already be undertaken in many instances.

**Public sector** – planning authorities will not receive any fee income for development that takes place under PDR. There may at the same time be a rise in inquiries regarding PDR which have no fee associated with them. There might also be a potential increase in levels of enforcement work.

There are also some concerns that there may be an environmental cost through reduced control and regulation.

## **Scottish Firms Impact Test**

### **Competition Assessment**

The proposals are not expected to impact significantly more on some firms than others nor restrict new entrants to the market. The legislation does not place any additional burden, over and above what is already in place, on businesses. Indeed, it is expected that there will be a net benefit to business.

### **Test run of business forms**

No new forms will be introduced as a result of this legislation therefore there is no requirement for a test run.

### **Legal Aid Impact Test**

We do not believe that the proposed regulations would create any additional pressures on legal aid resources. This view has been confirmed with colleagues with policy responsibility for legal aid.

### **Enforcement, sanctions and monitoring**

The Amendment Order would not create any additional need for enforcement or monitoring of planning control, as there is currently a requirement for planning authorities to monitor development within their area.

### **Post-implementation review**

The Government will monitor the impact of the changes through monitoring the number of applications to planning authorities. Reaction to how the changes have worked in practice and any particular areas of concern or uncertainty are likely to become quickly apparent through representations made by planning authorities, community bodies and business.

### **Summary and recommendation**

#### **Benefits**

- Less costs for business in preparing planning applications for minor works
- Less delay to the implementation of minor works while waiting for consent to be granted
- Removes element of uncertainty and risk from forward planning for businesses, allowing them to plan expansions, etc, with greater certainty
- Less applications to planning authorities allowing them to concentrate on non-pd
- applications which may be more significant or controversial

#### **Costs**

- Potential cost to planning authorities in handling queries in relation to PDR
- Potential increase in enforcement work due to misunderstanding of new PDR

### **Declaration and publication**