

POLICY NOTE

THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (SCOTLAND) AMENDMENT ORDER 2014

SSI 2014 No. 142

1. The above Order is made in exercise of the powers conferred on the Scottish Ministers by sections 30, 31 and 275 of the Town and Country Planning (Scotland) Act 1997 and all other powers enabling them to do so. The Order is subject to negative resolution procedure.

Introduction

2. This Order amends the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (the principal Order).

3. Article 2 makes changes to the classes of development which are currently permitted and introduces new classes of permitted development.

4. Article 2(4) inserts new Parts 2A 2B, 2C, 2D and 2E into the Order. These introduce a number of new classes (set out in the Schedule to the Amendment Order) as follows;

- 2A creates new classes 9A and 9B. New class 9A confers permitted development rights for the extension or alteration of a shop or financial or professional services establishments subject to certain criteria. New class 9B confers permitted development rights for the erection or construction of a trolley store within the curtilage of a shop subject to certain criteria.
- Part 2B creates class 9C which creates permitted development rights for the extension or alteration of schools, colleges, universities or hospital buildings subject to certain restrictions.
- Part 2C creates new class 9D which creates permitted development rights for the extension or alteration of an office building subject to certain restrictions.
- Part 2D creates new classes 9E and 9F into Part 2. These create permitted development rights for the installation, alteration or replacement of electric vehicle charging points in off-street car parks.
- Part 2E creates new class 9G conferring permitted development rights for the erection, construction or alteration of access ramps outside an external door of a non-domestic building subject to certain criteria.

5. Article 2(5) removes one of the exclusions from class 15 of Part 4. This has the effect of creating permitted developments rights for temporary open air markets to be held on a site for up to 28 days in any calendar year.

6. Articles 2(6) and (7) amend class 18 of Part 6 (agricultural buildings and operations) and class 22 of Part 7 (forestry buildings and operations) to the effect that works for the erection, extension or alteration of a building are not permitted by the respective classes if the development would take place on land within a battlefield. This is to allow planning

authorities to exercise greater control over buildings on designated battlefields listed in the Inventory of battlefields recently created by Scottish Ministers.

7. Article 2(8) substitutes a new class 25 in Part 8 (industrial and warehouse development). The new class introduces new restrictions and conditions to permitted development. The provision of a hard surface within the curtilage of an industrial building or warehouse is not permitted where the development would take place on land within the following - a site of archaeological interest, a national scenic area, historic garden or designed landscape, a historic battlefield, a conservation area, a National Park or a World Heritage Site. In addition the hard surface must be made of porous materials and provision must be made for water run off to a porous surface. This brings the permitted development rights for such hard surfaces associated with industrial and warehouse development into line with provisions for other classes of permitted development.

8. Article 2(10) substitutes class 30 of Part 12 (development by local authorities) to clarify what constitutes minor developments by local authorities.

9. Article 2(11) makes changes to class 33 of Part 12 (developments by local authorities) to clarify the rights which apply to local authorities and what is meant by “dwelling”. The article establishes that the definition includes flatted buildings. In addition, it increases the maximum cost limitation applicable to any development by local authorities from £100,000 to £250,000. The current value was set in 1992 And the increase reflects rising costs and inflation since then.

10. The amendments made by article 2(13) relate to development by telecommunications code system operators under class 67 of Part 20. They relax certain limitations on permitted development rights with regard to the replacement of unserviceable electronic communications apparatus, buildings in a designated area, telegraph poles and lines, ground based masts and apparatus and antenna.

11. The intention of the amendments to Class 67 is to promote greater use of existing sites by allowing increases in the size of installations and the number of antenna on individual sites. The PDR do not extend to the installation of new masts or antenna systems; these continue to require a planning application to be made and approved by the relevant planning authority.

12. The Amendment Order also;

- clarifies what is meant by ‘direction’ in article 3(9)(b) of the principal Order;
- amends the definition of “industrial building” to buildings used for research and development of products or processes; and,
- inserts a definition of ‘historic battlefield’.

Policy context

13. The Scottish Government believes that a well-functioning planning system is essential to achieving its central purpose of increasing sustainable economic growth. An effective, efficient and proportionate planning system which is focused on outcomes will deliver benefits to the wider economy.

14. Considering minor uncontroversial types of development is not an effective or efficient way of regulating development. Requiring planning applications,

where the planning system can add little, or no value, imposes unnecessary costs and delays to development. However, if permitted development rights are set too widely then there is a risk of inappropriate development taking place.

15. The Town and Country (General Permitted Development) (Scotland) Order 1992, as amended is the primary means by which permitted development rights (PDR), an exemption from the need for a planning application, is conferred. The order grants planning permission for a variety of works and uses provided that the development complies with the limitations and conditions set out.

16. The Scottish Government considers that PDR should :

- maintain effective control of developments which, because of environmental consequences or relationship with other uses, need to be subject to specific planning control, and
- be wide enough to cover in an appropriate way, those developments which in general do not damage amenity and therefore in general do not require an application for planning permission

17. The aims of the changes are therefore to ensure that PDR granted by the GPDO is proportionate and to remove unnecessary applications from the planning system.

Changes to PDR for Telecoms Code Operators

18. The Scottish Government has a vision for World Class digital connectivity by 2020; connectivity on any device, anywhere and at any time; which will require a hybrid of fixed and mobile networks. Significant public investment is currently being made in superfast broadband infrastructure in Scotland, with over £280 million of public funding committed through our *Step Change* programme.

19. Improving our digital infrastructure is vital to Scotland's economy. A reliable and modern network is essential for improving the ability of business to operate effectively in attracting inward investment; in the delivery of public services; contributing to a low carbon environment and having strong, connected communities in urban and rural areas. Digital connectivity takes on greater significance in Scotland, helping to address some of the disadvantages of physical distances between places.

20. Research suggests that high quality, superfast broadband provision could add £7.5 billion to the Scottish economy over the next ten years. This is dependent on having a suitable infrastructure in place to support the increasing demand for mobile broadband provision through the provision of masts, antenna and associated equipment.

21. Planning has a crucial role to play in supporting delivery of this infrastructure and facilitating appropriate proposals in the right locations. This is recognised by the commitment in the draft SPP that the planning system should support:

- development which helps to deliver the Scottish Government's commitment to

world class digital connectivity; and

- the provision of digital communications infrastructure which is sited and designed to keep environmental impacts to a minimum.

22. The changes to Class 67 reflect this commitment by allowing greater utilisation of existing sites (where the principle of installing telecommunications equipment has already been established through planning consent).

Consultation

23. The changes set out in the Amendment Order were subject to public consultation. In the case of the majority of changes this was through a consultation paper published in 2012, while the changes to Class 67 were consulted on separately earlier this year. Consultation responses broadly supported the changes taken forward in the Amendment Order.

24. The changes to Classes 18 and 22 to remove PDR from the erection or significant modification of agricultural and forestry buildings on historic battlefields were not subject to public consultation, however the views of both forestry and farming representatives have been sought and were supportive of the proposals.

Financial Implications

25. A Business and Regulatory Impact Assessment is attached. Generally the amendments to permitted development rights will result in savings in terms of time and resources for both developers and planning authorities.

Equalities Impact Assessment

26. An Equalities Impact Assessment is attached. The changes to permitted development rights are not expected to have a negative impact on any groups or persons. The proposals to allow access ramps to be installed without the need for a planning application will benefit disabled users of non-domestic buildings.

Strategic Environmental Assessment

27. The amendments to the GPDO were considered under the Environmental Assessment (Scotland) Act 2005 in order to identify if a Strategic Environmental Assessment (SEA) was required. A screening process was undertaken in consultation with SEPA, Historic Scotland and Scottish Natural Heritage after which it was determined and advertised that the GPDO would not have significant environmental effects and an SEA was not required

Scottish Government