

Permitted Development Rights: domestic air source heat pumps – Final Impact Assessments

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Final Business and Regulatory Impact Assessment

Title of Proposal

Permitted Development Rights for domestic air source heat pumps.

Stage

This 'Final' Business and Regulatory Impact Assessment focuses on the costs and benefits of the preferred option for permitted development rights. It follows public consultation which occurred between 22nd June and 27th August 2015 (<http://www.gov.scot/Publications/2015/06/6617>). Included in that consultation was a 'Partial' Business and Regulatory Impact Assessment which set out a number of options for permitted development rights and considered the impacts of them. This assessment benefits from comments made during the public consultation that are relevant to business and regulatory impacts as well as the comments made during structured interviews with businesses about the potential impacts of the proposed regulatory changes (revised permitted development rights) on which the Scottish Government consulted.

Although we consulted on domestic air source heat pumps and non-domestic solar panels, following the consultation the technologies are being progressed separately whilst an outstanding matter with solar panels is considered.

Purpose and intended effect of the regulation

Background

Since 2008 there has been a push within the planning system for greater permitted development rights for renewable energy generation technology. Permitted development rights for air source heat pumps exist for domestic air source heat pumps where they are sited 100m from the nearest neighbour's curtilage and are subject to prior notification to the planning authority on siting and design. Those conditions were applied to ensure noise emissions could be suitably controlled in the absence of an agreed noise threshold and measurement methodology. Since permitted development rights were implemented in Scotland, England and Wales have introduced permitted development rights that are based (for noise) on a connection to installer standards administered by the Microgeneration Certification Scheme

Scottish Ministers want to ensure that there is parity in permitted development rights between Scotland and England, in recognition that the companies manufacturing and installing these products have a business base often in both countries. Reducing the differences between the extent of permitted development rights will reduce the bureaucratic burdens of operating across the two countries.

Objective

To provide enhanced permitted development rights domestic air source heat pumps.

Rationale for Government intervention

- To ensure parity with the permitted development rights regime of other UK administrations.
- To reflect energy policy reserved to the UK Parliament.
- To meet commitments made to the Japanese consulate.
- To meet commitments made to the Scottish Parliament.
- To support the national outcome for sustainable places by providing a less constrained business environment for the installation of the technology which can assist in reducing resources associated with heating buildings.
- To support the national outcome for the environment by providing a less costly and more certain framework for deploying renewable energy installations, helping property owners reduce the greenhouse gas emissions from their buildings.
- To reduce a financial and procedural burden to make installation more attractive and thus support sustainable economic growth across Scotland.

Consultation

Within Government (pre-consultation stage)

Air Source Heat Pumps

Climate Change and Low Carbon

Home Energy Efficiency Programmes for Scotland (Housing)

Environmental Quality

Public Health Division

Building Standards

Welsh Government Planning and Environmental Health departments.

Legal

Input of these directorates has confirmed that European Commission notification under the Technical Standards Directive will be required. Further, the divisions have supported in principle the provision of permitted development rights for the technology with comments around what measures and safeguards may be required.

Public Consultation

Previous consultation –

The Scottish Government consulted in 2010/11 on permitted development rights for microgeneration equipment including air source heat pumps.

Pre-consultation 2014/2015 –

In preparing the proposals for consultation informal engagement has occurred between the Planning and Architecture Division, some environmental health officers, the Energy Saving Trust and one installer of the technology. Whilst there was some in principal support, concerns remained around noise impacts of air source heat pumps. The UK Government has considered the need to revise the noise threshold for air source heat pump installations under permitted development rights and concluded that no revision was required. That was based on a study which reported that of 52 responding local authorities in England, the majority of local authorities did not receive an increase in complaints to planning or environmental health following the introduction of the permitted development rights for air source heat pumps (Permitted Development Rights for Wind Turbines and Air Source Heat Pumps on Domestic Properties: One Year Review: <http://www.microgenerationcertification.org/about-us/news-and-events/192-pdrwtashpreview>).

Consultation June-August 2015 -

The Energy Saving Trust organised a webinar and workshop session about the proposals. The webinar, live streamed on 30 July 2015, was watched by 23 people of 52 who registered (so awareness of the consultation was raised even for those who did not watch the webinar). Those who watched mainly represented business and planning authorities. The well attended workshop, held on 31 July 2015, was designed to bring Environmental Health Officers and Air Source Heat Pump manufacturers and installers together. This was designed as an open informal forum for sharing their experiences and concerns to help each sector learn from the other. This was a successful event which also considered the Scottish Government's permitted development rights proposals. The general feeling was supportive with some, but not unanimous, reservations about noise impacts. The minute of the workshop is available on-line: http://www.energysavingtrust.org.uk/reports/scottish-government%E2%80%99s-consultation-permitted-development-rights-air-source-heat-pumps?utm_campaign=41274_Marketing_Scotland_supplychain_postemailheatpumps&utm_source=Dotmailer&utm_medium=EST%20Scot%20email&dm_t=0,0,0,0.

The consultation resulted in 51 relevant responses being made to the Scottish Government (one response was not about the consultation so was not included in the analysis of responses). Of those, around 40 comments were made on the various impact assessments.

Structured conversations were held with the organisations listed in the table below. Given the focused nature of the proposals we consider that these interviews are sufficient to give an appropriate and proportionate understanding about the potential business impacts of the regulations. We spoke to:

Company	Technology	Who	Size of Business
Dumfries and Galloway Housing Partnership	Air Source Heat Pump	Mike Trant, Asset Management and Policy manager	Large
		Ian Roddick – Asset Officer / COW	
		John Walker - Architect	
Daikin UK	Air Source Heat Pump	Dave Morrison – Renewable Solutions Consultant	Large
British Gas / pjJones	Air Source Heat Pump	Alex Dingwall – Area Operations Manager	Large
Coolheat Energy Systems	Air Source Heat Pump	Stephen Tomson	Small/micro
Black Isle Renewables	Air Source Heat Pumps	Iain Thomas	Small/micro

Strategic Environmental Assessment

As required by the Environmental Assessment (Scotland) Act 2005 (the 2005 Act) screening was undertaken in January 2015 to determine the likelihood of significant environmental effects from proposals within the consultation document. This process involved seeking the views of the Statutory Consultation Authorities (Scottish Environment Protection Agency (SEPA) Scottish Natural Heritage (SNH) and Historic Environment Scotland (HES)), on the likelihood of significant impacts. Taking into account the views expressed, it is the opinion of the Scottish Government that significant environmental effects from proposals within the consultation document are not likely to occur. The screening report can be viewed [here](#).

Preferred Option

The Partial Business and Regulatory Impact Assessment set out two options for air source heat pumps. A do nothing option was rejected.

We rejected the option of adopting all the provisions set out for England and suggested the better option would be to adopt some of the provisions from England but making sure that the regulations in Scotland would have consistency with existing permitted development rights in Scotland.

Overall our preferred option is to ensure that unnecessary barriers to the technologies are removed to provide parity of permitted development rights for solar panels and air source heat pumps in Scotland compared to the other UK administrations. Our position has not changed as a result of the consultation process, although the method by how this is achieved has been modified in response to comments received.

The Public consultation responses suggested that generally the responses were supportive of the proposals. Some concerns remain from Councils about noise impacts.

The Business interviews suggested that the proposals were broadly appropriate and beneficial. Some aspects were identified where business felt that the proposals could go further, in particular for air source heat pumps where the limitation to the 1 meter bubble concept was felt to be restrictive for the smaller number of proposals where heat pumps sited at distance from the house are needed. In addition the restriction to one per dwelling was felt to be ambiguous and for flatted development, multiple pumps would be more beneficial. Larger single properties sometimes require two rather than one air source heat pump, although these are felt to be a minority of installation scenarios.

Our preferred Option is to provide permitted development rights for one air source heat pump on houses and blocks of flats. This is because the microgeneration certification scheme, which we intend to use to provide the noise threshold and assessment methodology for permitted development does not apply to multiple units. We will go further than the consultation envisaged and provide permitted development rights for air source heat pumps that are sited remotely from but within the curtilage of the house or block of flats as well as providing for the installation to occur within 1 meter of the external wall or roof of the building.

The business costs and benefits of this option are:

Business Costs

Of the preferred option the only cost mentioned in interviews that would occur was that associated with undertaking the microgeneration certification compliance procedure, although it was noted that this was less onerous than the costs associated with a planning application.

The proposals will not allow for heating and cooling units, although this was thought to constitute less than 1% of installations.

The proposals do not extend to non-domestic installations and so there are no additional costs but also no additional benefits for those installations.

With the installation of air source heat pumps it was noted that there was decreased work for chimney sweeps.

Business Benefits

Our conversations revealed that it is the home owner who is routinely expected to pay for the planning application either up front or as part of an installation cost. Therefore planning application fees are not a business cost for technology manufacturers or installers. Housing associations, however, are effectively home owners and so do face application and advertising costs. Dumfries and Galloway Housing Partnership considered that it had spent around £250,000 on planning and building warrant fees.

Although building warrant fees will not be reduced, for houses the housing associations would no longer face planning application fees for the installation of single air source heat pumps (and it is understood that most houses only require one air source heat pump). For blocks of flats, if only one air source heat pump is being installed then the housing association would not face a planning application fee.

In conversation, most businesses mentioned the time factor and uncertainty of outcome associated with planning applications. For single air source heat pumps this would no longer be a factor. We intend to review the position for multiple air source heat pumps after one year of the implementation of the permitted development rights.

Dumfries and Galloway Housing Partnership referred to the administration costs of making and managing a planning application, which would not be incurred under a permitted development rights scenario. This would be removed in the single air source heat pump situation.

One organisation thought that the end users or home owners would save £200-400 if they did not need to go through the planning application process.

A further benefit is the release in market potential for the technology. Installers and manufacturers generally thought that there would be an increase in opportunities for sales or work, with one manufacturer suggesting 5-10 per cent uplift in one year. The price of the average air source heat pump was thought to be £3500 with 1500 units sold in Scotland per year. A 10 per cent up lift would be 150 units or £525,000 in unit sales. The difference being that the time cost and uncertainty associated with the planning process can cause those looking for a new heating system to revert to fossil fuel systems which have cheaper up-front costs and no associated planning application fee despite being expensive in the long term. Removing the necessity for planning permission makes it possible to immediately install an air source heat pump system to replace a fossil fuel heating system that has broken down, this is simply not possible without a change in the legislation.

For smaller firms in particular, removing the planning application step assists with workload planning and avoids having staff lined up to undertake installations which then don't proceed or are delayed because of a planning decision.

Initially proposals were limited to those installations that could be achieved within 1 meter of the external surface of the building. Comments received during the consultation suggested that this type of installation was the most common but that there are some instances where remote siting (i.e. elsewhere on land on which the building sits) is preferred by the owner or enables installation where siting immediately adjacent to the building is not possible. Those we spoke to advised that the technology now means that there need not be significant efficiency reductions as a consequence of the longer pipe work associated with remotely sited units. Our preferred option now allows for this situation to maximise the opportunity for the technology to be installed.

We maintain the microgeneration certification scheme (or equivalent) compliance as a condition of the permitted development rights.

Sectors and groups affected

Home owners, landlords, private and social domestic tenants, commercial property owners and tenants, renewable energy technology manufacturers, renewable energy technology installers, renewable energy advisory services, Councils in Scotland, planning consultants. The Equalities Impact Assessment has flagged that there may be impacts for those people who spend prolonged periods of time at home, this could include children and young people, older people, some disabled people, and some ethnic groups.

Although a call for information about specific impacts on people who may spend long periods of time at home (older people, some disabled people, children, nursing mothers) no direct evidence of impact has been received.

Anecdotally, Dumfries and Galloway Housing Partnership and Black Isle Renewables did find that there were fuel poverty benefits, social benefits and health benefits from air source heat pumps. This is because that although the overall heating/hot water bill does not decrease from that associated with electric storage heating or oil fuelled systems, the whole house can be heated for the same price as only partially heating the house using the other technologies.

Generally the level of complaint about the technology was reported as being low or non-existent once the installation had been completed.

One incidence was reported where an air source heat pump had to be re-sited to ensure sufficient room for wheelchair access could be achieved. Where the wheelchair user is the one having the air source heat pump installed, access can be discussed in advance of installation going ahead. Where the wheelchair user is seeking accommodation and finds an access problem caused by the siting of an air source heat pump they are aware of the problem in advance of selecting that home or at least in advance of moving in. However a variety of other additions could have been made to the building affecting the access for a wheelchair user so air source heat pumps are not unique in that regard. The allowance of remote siting as part of the permitted development rights should assist in resolving this access implication for homes occupied by wheelchair users without needing a planning application to be submitted.

Options impact:

We believe the preferred option will have minimal costs and potentially significant business and home-owner benefits. We do not guarantee that the preferred option won't cause intolerable noise impacts for every neighbour, the planning system does not do this for any development. However, the microgeneration certification scheme does provide for what we believe to be an acceptable noise environment for most people. Those instances where intolerable noise being experienced can be reported and investigated through the Environmental Protection Act 1990 as it is at the moment.

Beyond business impacts we believe that there is the possibility for the technology to improve the wellbeing of households unable to afford to heat their whole house using an existing traditionally fuelled heating system.

General benefits

Air Source Heat Pumps

Home owners – no planning application and associate fees for installing air source heat pumps. Certainty about what installations will be acceptable.

Businesses – no planning application and associate fees for installing air source heat pumps. Certainty about what installations will be acceptable. Ability for landlords to install the technology rapidly in response to a heating system failure or during a time when the property is empty to reduce disturbance to tenants. This means selecting air source heat pumps is more likely as the planning barrier is removed therefore making the technology more equivalent to other heating systems in terms of regulation.

Installers – Certainty about what heat pumps will not require planning permission, quicker time scale from quote to installation.

Manufacturers – able to design products to fit the permitted development rights to gain market advantage but a planning consent can still be pursued for those products that do not fit the permitted development right thresholds so other products are not excluded from the market. Reduced regulation would bring the technology more in line with other technologies such as ground source heat pumps meaning people are not dissuaded from choosing the technology on the grounds of regulatory hurdles. There would be consistency of approach across Scotland to noise thresholds for compliant products.

The Scottish Government does not monitor the number of planning applications made for air source heat pumps so a direct monetary identification of the planning application fee saved cannot be made. However, information is available about the number of applications to the Renewable Heat Incentive scheme (operated by the UK Government). In Scotland for the 6 months between April and September 2014 there were 403 applications to the scheme for domestic properties. This means there was an average of 67 applications to the scheme per month.

Planning authorities would no longer receive planning applications for single air source heat pumps.

Currently air source heat pumps when presented to the planning authority as an application only for the installation of the unit (as opposed to units being included as an element of other development proposals) would be considered as a 'Local' planning application. The Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Amendment Regulations 2014ⁱ sets out the fees for a variety of applications to the planning authority. It is for the planning authority to determine the fee category that the proposal best fits. For the purposes of this assessment it is taken that applications for air source heat pumps would be processed for fee allocation under part 7(a) of the schedule to the 2014 regulations. This puts the planning application fee at £202.

Assuming that all of the applications involving air source heat pumps to the Renewable Heat Incentive scheme result in planning applications being made to the relevant planning authority in Scotland that would be an application rate of approximately 804 per year. In reality this will be somewhat less as the application rate will not be constant each month and some proposals will benefit from existing permitted development rights.

If the planning application rate was 804 per year, the planning application fee saving would be:

$$804 \times £202 = £162,408.$$

In making a planning application it is not just the fee for the application where monetary cost is incurred. Applications must be accompanied by site plans as well as elevation drawings.

In some cases noise reports are required up front. These plans and accompanying information will commonly be supplied on a consultancy basis for which costs will vary. However it has been confirmed by the conversations held with businesses that the planning application fee is not the major cost associated with the installation of an air source heat pump.

We do not have figures for what proportion of air source heat pump installations are for multiple units. However, it is thought that these do not make up the majority of applications.

The savings identified are for customers. The cost is that the planning authorities are losing the fee income (but also the necessity to consider the planning applications so the impact should be neutral). There is a broader cost probably more keenly felt by smaller firms offering planning consultancy services in that they will lose the income stream from preparing planning applications for air source heat pumps, however the conversations we held with business did not suggest there was a strong uptake of consultancy, beyond noise impact assessment when (infrequently) required.

Of the 403 applications to the Renewable Heat Incentive Scheme 133 were for on-grid and 270 off-grid. Those off-grid properties are most likely to be rural, and those on-grid most likely to be urban. Approximately 67% of applications to the scheme are for rural properties and 33% urban.

Fuel poverty can occur in urban and rural situations but heat pump technology has most benefit in terms of reducing heating costs where the alternative heating fuel is not mains (grid) gas. Therefore the cost benefits of air source heat pumps will be particularly noticeable in rural areas. In terms of the monetised savings, that could mean that £108,813 is released in rural areas.

In non-domestic situations for the 10 months between November 2011 and September 2014 there were five applications to the Renewable Heat Incentive scheme across the whole of Great Britain, and a figure for Scotland alone is not available. Whilst this does not mean that significantly more planning applications for non-domestic air source heat pumps have not been made it is not possible at this time to quantify the number of planning applications made. However our discussions with business suggested that the Housing Association would be keen to use the technology in as many instances as possible for its housing stock and that one of the businesses was making about 150 installations per year (which is just under three installations per week).

If the applications to the scheme are a reliable proxy for the number of planning applications made for air source heat pumps and accepting the principle that the planning application fee is not the principal cost in making the planning application, it does not seem that the financial benefit of permitted development rights to applicants would be the most significant action that could be taken to increase uptake of the technology in the non-domestic sector.

Costs

Air Source Heat Pumps

The most concerning cost would be a reduction in the quality of the domestic noise environment for neighbours. The Scottish Government is aware of only a low level of complaint around noise from air source heat pumps which is managed by the Environmental Health service of Councils in Scotland. Businesses have reported low or no incidence of noise complaints following the installation of air source heat pumps. Under an extended permitted development rights scenario the Environmental Health service of Councils would not be able to comment on every installation in advance but could fall back on noise

nuisance procedures if needed.

Planning authorities would lose the fee income associated with planning applications for single air source heat pumps, which could equate to around £163,000 per year across Scotland.

Scottish Firms Impact Test

The results of the business interviews have been reported throughout this assessment. Overall the proposals were found to be positive with some suggestions for further extension of the situations in which air source heat pumps will be acceptable. These have been considered in arriving at the preferred approach as earlier described.

Competition Assessment Screening

Will the proposal directly limit the number or range of suppliers?

No. The provision of permitted development rights do not prevent suppliers continuing to operate and their products being subject to the planning application process should they not conform with permitted development rights.

Will the proposal indirectly limit the number or range of suppliers?

No. The provision of permitted development rights do not prevent suppliers continuing to operate and their products being subject to the planning application process should they not conform with permitted development rights. Depending on the business model of the supplier they may benefit from designing products that can comply with the permitted development rights.

Will the proposal limit the ability of suppliers to compete?

No. The provision of permitted development rights do not prevent suppliers continuing to operate and their products being subject to the planning application process should they not conform with permitted development rights. Depending on the business model of the supplier they may benefit from designing products that can comply with the permitted development rights. One business interviewed noted the potential for improved competitiveness as increased permitted development rights would remove a barrier to installation.

Will the proposal reduce suppliers' incentives to compete vigorously?

No. The provision of permitted development rights do not prevent suppliers continuing to operate and their products being subject to the planning application process should they not conform with permitted development rights. Depending on the business model of the supplier they may benefit from designing products that can comply with the permitted development rights.

Conclusion

Competition Assessment not required.

Test run of business forms

No new forms will be introduced.

Legal Aid Impact Test

No significant impact on legal aid anticipated.

Enforcement, sanctions and monitoring

The planning authority function of Councils in Scotland will be the first point of contact for those concerned that development does not have planning permission and does not comply with permitted development rights.

Where permitted development rights have been accorded with but noise from air source heat pumps remain a concern, individuals can complain to the Environmental Health department of a Council in Scotland who can investigate to see if a statutory noise nuisance has occurred. If so action to resolve the nuisance (including removal of the noise making equipment) could be undertaken.

Permitted development rights for air source heat pumps are dependent on compliance with the Microgeneration Certification Scheme. Within that scheme consumers and neighbours of installations are protected by the quality assurance that the certified products and installers achieve.

The Scottish Government receives correspondence about various legislative and policy interventions that have been or are thought useful to make. This informal route provides individuals the option of informing the Scottish Government when they consider that a Scottish Government activity is not sufficiently protecting their interests.

The public consultation on proposals to extend permitted development rights resulted in generally supportive comments. All the comments received were considered and have informed the description of the preferred option as described earlier.

Implementation and delivery plan

The regulations will be implemented through an amendment to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992. This is secondary legislation within the competence of the Scottish Parliament and would be approved by a negative parliamentary procedure.

Delivery of the regulation is through product manufacturers, installers and home owners who install the equipment in accordance with the regulations. Enforcement via Councils in Scotland and potentially the Microgeneration Certification Scheme ensures delivery in accordance with the regulations.

As installations that do not require planning permission will not be registered with Councils it will not be possible to track the number of installations through the Council's planning service records. Proxy tracking may be achieved through the number of installations receiving loan payments for installation or tariff payments for electricity generation, but not all installations will take advantage of either of those incentives. The incentives themselves are currently in flux and may be offered on a much reduced basis in the future, further eroding their reliability as a proxy measure.

Post-implementation review

The Scottish Government will review the regulations after 12 months from them coming into force, in order to understand if the anticipated effects have in fact been realised and if any

unanticipated effects have also emerged. At that time it may also be possible to consider a further extension the permitted development rights, if thought necessary.

Summary and recommendation

Having considered a number of options at the partial BRIA stage and following public consultation as well as direct interviews with a variety of businesses we feel that the preferred approach, set out in this final BRIA represents the best means at this time of reducing regulatory hurdles to deployment of domestic air source heat pumps.

At the partial impact assessment stage we did not believe that the preferred option would cause significant reduction in residential amenity. We have not received firm evidence that potential adverse impacts on individuals has occurred in the past. However, we have received further anecdotal evidence that air source heat pumps have resulted in low or no complaints after installation and can make a significant difference to the lives of individual households who were previously having difficulty in affording to completely meet their heating and hot water needs.

It is recommended that the preferred option forms the basis of revised legislation for extending permitted development rights for domestic air source heat pumps.

Summary costs and benefits table

This is based on the partial BRIA, which was subject to consultation. As a result of that consultation the figures have not been updated as they are considered to be a fair representation of the likely sums involved and comments provided in responses to the consultation did not suggest otherwise.

Option	Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
1 Do Nothing	<p>Neighbours retain the ability to comment on planning applications prior to installation so the local situation is fully understood.</p> <p>Planning authorities earn planning application fees associated with planning applications.</p>	<p>Applicants have to pay the planning fee and other costs for drawing up plans etc. to satisfy the regulatory process.</p> <p>It is possible that there is unmet demand for air source heat pumps because some applicants are put off by the regulatory hurdle.</p>
Option 5: AIR SOURCE HEAT PUMPS Adopt all the provisions from England	Anticipated same benefits to Option 6	<p>Misses the opportunity to bring the permitted development rights in line with the approach to other minor development that does not extend the floor area of domestic properties.</p> <p>Otherwise, as per Option 6.</p>
Option 6: AIR SOURCE HEAT PUMPS Adopt the principles of the provisions from England but apply them in a way that is consistent with existing approaches to permitted development rights in Scotland	<p>Regulatory hurdles reduced.</p> <p>Perceived barriers caused by the uncertainty of the outcome of a planning application removed.</p> <p>Potential planning application fee savings in the region of £162,408 (based on 804 planning applications per year).</p> <p>No costs associated with drawing up information to submit with the planning application</p> <p>Consistent approach to noise management within permitted development rights through the application of the microgeneration certification scheme.</p>	<p>Planning authorities lose fee income in the region of £162,408 (based on 804 planning applications per year)</p> <p>Communities cannot comment on proposals before they are installed.</p> <p>Microgeneration Certification Scheme noise limits may be higher than those the planning authority might have applied through the planning application process.</p>

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

Date:

Minister's name: Alex Neil MSP

Minister's title: Cabinet Secretary for Social Justice, Communities and Pensioners Rights

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Equalities Impact Assessment

Title of Policy

Permitted Development Rights: domestic air source heat pumps

Summary of aims and desired outcomes of Policy

Remove the technology in more situations from the need for planning applications to be submitted.

To create parity between permitted development rights for the technology between Scotland and England.

Directorate: Division: Team

Directorate for Local Government and Communities: Planning and Architecture
Division: Planning Policy Team

Executive Summary

This assessment highlights that the key impacts will be people at home for extended periods. It also highlights that those impacts are uncertain and that further information about this should be sought during the consultation stage.

Background

Aims:

- To remove the requirement for planning applications to be made for domestic air source heat pumps in more situations than legislation allows for at this time.
- To create parity between the permitted development rights for air source heat pumps between England and Scotland.

National Outcomes Contribution

Outcome: We live in well-designed, sustainable places where we are able to access the services and amenities we need. Permitted development rights provide a less bureaucratic route for investment in on-site air source heat pumps.

Outcome: We value and enjoy our built and natural environment and protect it and enhance it for future generations. The application of renewable energy technologies to existing buildings can reduce Scotland's reliance on fossil fuel and centralised sources of energy which can help reduce greenhouse gas emissions.

Operational Context

The permitted development rights would become secondary legislation through the laying of a Scottish Statutory Instrument before the Scottish Parliament.

Development falling within the criteria and thresholds established by the rights would not require planning permission but remain required to gain non-planning consents such as a building warrant.

Development which does not meet the criteria or thresholds within the legislation will not be considered to be permitted development and requires to gain planning permission through the submission of a planning application. Although a planning application may not result in permission being granted, the fact that a development does not benefit from permitted development rights status does not mean that it cannot secure planning permission.

Engagement

As these permitted development rights impact mainly planning and climate change, relevant officials from those divisions were involved.

Proposals were subject to public consultation between June and August 2015.

The Scope of the EQIA

The likely effects of the policy and assessment of these were drawn from a discussion on the potential effects.

The discussion was based on officer knowledge, with potential sources of information highlighted for future reference.

Key Findings

Impacts are considered to be generally indirect and in all cases apply to everyone, not just those with protected characteristics. However the evidence base is weak. Amending the legislation does not remove routes of complaint for development that does not conform to the rights and environmental health impacts can be addressed by a separate regime.

The public consultation process did not reveal a significant published evidence base on impacts on equalities. However, in 2010 the Energy Saving Trust published 'Getting Warmer: a field trial of heat pumps' which includes reporting on user perceptions. That report does not suggest negative impacts on wellbeing or particular groups but does suggest that the instructions for operating the system need to be clear and that the performance of the system varies because users operate the systems differently.

Potential negative impacts/severity/mitigation:

For air source heat pumps the direct negative impact identified was noise. This could have a greater bearing on older people, disabled people, women and those in minority ethnic groups represented in lower income groups. These groups may spend longer periods at home and so be more exposed to noise from air source heat pumps. There was some agreement with this sentiment coming through in the public consultation responses. However there was also support for the microgeneration certification scheme being utilised as the mitigation measure within permitted development rights and that the group of people most likely to spend long periods of time at home was also the group most likely to benefit from the savings that can be made from use of the technology compared to other forms of electric, oil or non-mains gas based heating systems. This was predicted within the impact assessment that accompanied the consultation.

On noise, we do acknowledge that this is a potentially negative impact upon those groups identified but indeed on any neighbour to the air source heat pump. Our proposals include means by which the noise level of the air source heat pump is predicted and that method includes a maximum noise level in order for air source heat pumps to be considered to be permitted development. Noisier installations would require planning permission. This approach has found general support from the public consultation, although some concerns do remain from local authorities (although the concern is by no means universally held amongst local authorities).

Environmental Health Officers of Councils in Scotland already have a statutory role in investigating and dealing with noise nuisance. That is unaffected by the permitted development rights and provides a safeguard against installations that meet the permitted development rights thresholds but following investigation are found to constitute a statutory noise nuisance. We are not aware that this process has been commonly applied to air source heat pump installations.

This assessment of impacts has increased awareness of the groups of people that might be adversely affected because of their length of time within the home.

Although not discussed at the time of the framing workshop, it is also considered that these same matters could be applied to children, who can be expected to spend a lot of time at home and less so to young people in education who will spend extensive periods away from the home at their place(s) of education. The mitigation measures apply to all people and it is not considered that they require to be tailored towards young people. Comments received through the public consultation did not suggest that impacts, positive or negative, were restricted to any particular group.

Indeed there were comments received that indicated that the technology can be a means of tackling fuel poverty by enabling whole houses to be heated at no additional cost compared to other forms of electrical heating systems. This was thought to have significant wellbeing impacts on the whole household involved.

Recommendations and Conclusions

No additional mitigations for particular groups have been suggested to those already being considered. There was one suggestion of retaining a distance threshold from the unit to another residential neighbour but as this relates to noise we consider that this would be addressed by the microgeneration certification scheme.

We initially recommended that a review in three years time would be suitable. Responses to the consultation suggest that a review in one year would be acceptable and we are happy to support that.

Child Rights and Wellbeing Impact Assessment Summary

<p>CRWIA title: Permitted Development Rights: non-domestic solar panels and domestic air source heat pumps consultation.</p> <p>Date of publication: XX November 2015</p>	
Executive Summary	<p>This Child Rights and Wellbeing Impact Assessment deals with the potential impacts of air source heat pumps on domestic buildings from not requiring planning permission in more situations than at present.</p>
Background	<p>Since 2008 there has been a push within the planning system for greater permitted development rights for renewable energy generation technology. Permitted development rights for air source heat pumps exists for domestic air source heat pumps where they are sited 100m from the nearest neighbours curtilage and is subject to prior notification to the planning authority on siting and design. Those conditions were applied to ensure noise emissions could be suitably controlled in the absence of an agreed noise threshold and measurement methodology. Since permitted development rights were implemented in Scotland, England and Wales have introduced permitted development rights that are based (for noise) on a connection to installer standards administered by the Microgeneration Certification Scheme.</p> <p>For air source heat pumps Scottish Ministers want to ensure that there is parity in permitted development rights between Scotland and England, in recognition that the companies manufacturing and installing these products have a business base often in both countries. Reducing the differences between the extent of permitted development rights will reduce the bureaucratic burdens of operating across the two countries.</p>
Scope of the CRWIA	<p>This assessment focuses on the following articles of the United Nations Convention on the Rights of the Child:</p> <p>Article 23: (1) States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.</p> <p>Article 27: (1) States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.</p> <p>Accordingly the assessment also considered the following wellbeing aspects:</p> <p>Healthy – Noise if excessive can be an annoyance or statutory nuisance. However the permitted development rights do not impact on the level of access to health services nor impact on learning support to make healthy choices.</p> <p>Nurtured – Whilst noise and appearance of place have a bearing on</p>

	<p>the conditions within which a child may reside, the impacts are indirect, will be limited and apply area wide.</p> <p>If the child's household benefits from the application of the technology then they may as a household benefit from reduced heating or household fuel costs (although this is dependent on the particular installation and how it is operated so is not a guarantee of the proposed legislative change).</p> <p>Included - Whilst noise and appearance of place have a bearing on the conditions within which a child may reside, the impacts are indirect, will be limited and apply area wide.</p> <p>If the child's household benefits from the application of the technology then they may as a household benefit from reduced heating or household fuel costs (although this is dependent on the particular installation and how it is operated so is not a guarantee of the proposed legislative change).</p>
<p>Children and young people's views and experiences</p>	<p>Comments received during the consultation did not suggest that there would be adverse impacts specifically on children. There was some sentiment that the impacts were not restricted to any particular group. There were a couple of comments which indicated that household wellbeing improved following air source heat pump installation (for the household benefiting from the technology) as it was a method by which fuel poverty could be reduced and whole houses be heated at no additional utilities cost.</p>
<p>Key Findings</p>	<p>At this time we believe that generally the potential impacts are likely to be neutral. As the potential impacts may be experienced differently by different individuals, children, young people and adults, but not significantly by protected grouping, such as disabled people more so than other individuals.</p>
<p>Conclusions and Recommendations</p>	<p>The Child Rights and Wellbeing Impact Assessment has not strongly suggested that additional measures or mitigations are required in order to safeguard or promote the United Nations Convention on the Rights of the Child or the associated wellbeing indicators for Children in Scotland.</p> <p>However we acknowledge that specific information about the impacts on children and young people as a result of the technology has not been identified at this stage or through the consultation exercise.</p>
<p>Monitoring and review</p>	<p>Given the nature of air source heat pumps in particular a review of the operation of the legislation after 1 year from its coming into force is recommended. Otherwise a 10 year review is appropriate.</p>

Bill - Clause	Aims of measure	Likely to impact on . . .	Compliance with UNCRC requirements	Contribution to SHANARRI wellbeing indicators
<p>The Town and Country Planning (General Permitted Development) (Scotland) Order 1992</p> <p>Class 6H</p>	<p>Remove the need for planning applications to be submitted in advance of the installation of domestic air source heat pumps in a greater range of situations.</p> <p>We look to remove the restriction for the air source heat pump to be 100 metres or more from the curtilage of another dwelling, remove the requirement for the step of asking the planning authority if prior approval of the equipment is needed. We propose to link the noise prediction to the UK established microgeneration certification scheme, and to bring air source heat pumps effectively within the alterations to a dwelling house that are permitted within 1 meter of the external surface of the building. We will also allow for remote siting of air source heat pumps.</p>	<p>Children and young people, in particular disabled children, who may spend long periods of time at home.</p>	<p>Article 23 (1) right to life conditions that promote dignity</p> <p>Article 27 (1) rights to an adequate standard of living for their development</p>	<p>Healthy – Noise if excessive can be an annoyance or statutory nuisance.</p> <p>However the permitted development rights do not impact on the level of access to health services nor impact on learning support to make healthy choices.</p> <p>Nurtured/Included – Whilst noise and appearance of place have a bearing on the conditions within which a child may reside, the impacts are indirect, will be limited and apply area wide.</p> <p>If the child’s household benefits from the application of the technology then they may as a household benefit from reduced heating or household fuel costs.</p>

Strategic Environmental Assessment

A Strategic Environmental Assessment (SEA) screening has been undertaken in accordance with the Environmental Assessment (Scotland) Act 2005 (the 2005 Act). A screening report was submitted to the SEA Gateway in January 2015 which set out the likelihood of significant environmental impacts arising from proposals within the Permitted Development Rights: non-domestic solar panels and domestic air source heat pumps consultation.

In consultation with the Statutory Consultation Authorities (Scottish Environment Protection Agency (SEPA) Scottish Natural Heritage (SNH) and Historic Environment Scotland (HES)), it is the view of the Scottish Government that significant environmental effects from proposals within the consultation document are not likely to arise, based on the proposals set out in the consultation. A formal screening determination will be issued in due course.

ⁱ <http://www.legislation.gov.uk/ssi/2014/214/schedule/made>