

POLICY NOTE

THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (SCOTLAND) AMENDMENT ORDER 2016

SSI 2016/126

The above Order was made in exercise of the powers conferred by Section 30, 31 and 275 of the Town and Country Planning (Scotland) Act 1997. The instrument is subject to negative procedure.

Policy Objectives

The Order amends Class 6H of Part 1A of Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, to provide for additional permitted development rights (PD rights) for the installation, alteration or replacement of an air source heat pump (ASHP) on or within the curtilage of a dwelling (which includes a block of flats or a flat).

The key changes proposed include:

- Removing the existing requirement for ASHPs not to be less than 100m from the boundary of another domestic property.
- Removing the existing requirement for prior approval to be sought from the Planning Authority.
- Allowing for one ASHP on a building or within the curtilage of the building.
- Application of the Microgeneration Certification Scheme to provide thresholds against which permitted development rights for ASHPs are assessed. In particular, in relation to noise outputs of ASHPs.
- Where the ASHP is located on a dwelling, provision for PD rights anywhere within a 1 metre bubble around the building, subject to further restrictions within a Conservation Area.
- Where the ASHP is located within the curtilage of a building, provision for PD rights subject to restrictions in relation to the height of the structure and in relation to fronting a road.
- Retention of existing restriction so that PD rights for ASHPs won't apply in World Heritage Sites or within the curtilage of a listed building.

PD rights remove the need for planning permission. PD rights exist across Scotland for minor and uncontroversial types of development unlikely to raise issues requiring a planning application. By removing the need for planning permission the cost and time associated with the requirement for planning permission is removed making it easier and more affordable to install an air source heat pump.

The changes set out in the Instrument will make it easier for energy consumers and providers to utilise renewable energy technologies without the need to apply for planning permission. This would reduce the reliance of individual properties on fossil fuel heat and power sources and positively address issues with fuel poverty. The changes would also provide a more positive and consistent approach for businesses, reducing costs and time delays associated with a requirement for planning permission. The proposals would positively address Scottish

Government aspirations on reducing carbon emissions and supporting sustainable economic growth.

Whilst respecting that the planning system is a devolved function and is undertaken in a manner appropriate for Scotland, the proposals seek to bring the approach to permitted development rights for air source heat pumps into line with the approach in England and Wales. An approach closer to that of England and Wales will help to reduce regulatory complexity for manufacturers, installers and property owners working across administrative boundaries in the UK.

Consultation

A public consultation took place from 22 June to 27 August 2015. In addition structured conversations were held with industry and social housing interests including Dumfries and Galloway Housing Partnership, Daikin UK, British Gas / pjJones, Coolheat Energy Systems, and Black Isle Renewables.

The majority of consultees were supportive of the proposals. In particular support was expressed for the positive impact on business and on climate change and carbon reduction targets. Equality impacts were considered positive especially in addressing fuel poverty. The key issues focussed on noise and visual impacts, and on a desire to see extension to the permitted development rights proposed.

On noise impacts we have addressed concerns through application of the Microgeneration Certification Scheme (MCS). This provides a means by which the noise level of the air source heat pump is predicted. The standards use a maximum noise level in order for air source heat pumps to be considered to be permitted development. In addition PD rights would only be for single pumps, addressing concerns over cumulative noise impact. On visual impact we propose restriction of PD rights in conservation areas. PD rights will not apply in World Heritage Sites or in the curtilage of a listed buildings. Addressing the desire for more extensive PD rights we have provided s for the installation of pumps anywhere on a building, and for PD rights for ASHPs to apply in back gardens.

Please see a copy of consultation analysis report linked <http://www.gov.scot/Resource/0049/00493356.pdf> . Please note that the report includes analysis of consultation on proposals for solar panels as well as air source heat pumps. For information, we consulted on permitted development proposals for both non-domestic solar panels and for domestic air source heat pumps at the same time. On the basis of responses received to the consultation we have not taken forward proposals for solar panels at this time.

Under the Technical Standards and Regulations Directive 2015/153/EU the draft Order was notified to the European Commission for their consideration on whether the proposals posed any barriers to trade. No objections or comments were received from the European Commission.

Impact Assessments

A Business and Regulatory Impact Assessment, a Strategic Environmental Assessment, an Equality Impact Assessment and a Children and Wellbeing Impact Assessment were carried out on the proposals. These are attached. No significant issues emerged that have required changes to the proposals or that are not addressed in response to the general consultation points noted above, particularly in relation to noise impacts.

On SEA it is the view of the Scottish Government that no significant environmental effects from the proposals within the consultation document are likely to arise.

Financial Effects

A final Business and Regulatory Impact Assessment (BRIA), following the consultation, has been completed and is attached. The financial implications are set out in the Business and Regulatory Impact Assessment. There will be savings for applicants who would not have to pay for a planning application and supporting information, although that saving would represent lost income to planning authorities and businesses that prepare supporting information.

A significant aspect, which is more difficult to quantify, is the impact of the time saving of not having to undertake a planning application prior to installation. This makes the technology as time competitive as other heating systems that don't generally require planning permission, such as oil and gas. That time competitiveness may mean that more householders will take up the technology. The absence of a requirement for a planning application (and the time and uncertainty of outcome associated with that) also makes it easier for installers to manage and ensure a steady workload for their business and employees.

Scottish Government
Directorate for Local Government and Communities

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