

Changes to Permitted Development Rights for Householders – Consultation Paper

Development Control, Item 10

Committee: Development Control

Agenda Item

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10

Title: Changes to Permitted Development Rights for Householders – Consultation Paper

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Item for
Decision

Summary:

The Department for Communities and Local Government has issued a consultation paper outlining proposed changes to permitted development rights afforded by Parts 1 and 2 of the Town and Country Planning (General Permitted Development) Order 1995. The key areas for change relate to the criteria for determining the size of house extensions and outbuildings. These changes are based on an assessment of impact rather than arbitrary size limitations. The consultation period expires 17 August 2007.

Recommendations:

That Members endorse the comments to the Department's 16 questions outlined below, as a basis for formal response to the consultation exercise.

Background Papers:

1. 'Changes to Permitted Development' – Consultation Paper 2: Permitted Development Rights for Householders; May 2007.
2. The Town and Country Planning (General Permitted Development) Order 1995 (GPDO)
3. The Householder Development Consents Review (HDCR) Report July 2006.

Impact

Communication/Consultation	This is part of a public consultation exercise. UDC has advised its planning agents through the agents' forum of the existence of the document to make their own comments.
Community Safety	No impact
Equalities	No impact.
Finance	These proposals would potentially result in a reduction in the number of householder planning applications submitted to the Council, which although reducing income would also reduce the costs of running the service. The government is seeking to address the issue of compensation in the legislation.
Human Rights	These changes seek to give greater protection to householders from inappropriate

Changes to Permitted Development Rights for Householders – Consultation Paper

Development Control, Item 10

	development which can currently be constructed as Permitted Development.
Legal implications	The proposals would result in changed legislation through the normal processes in due course.
Sustainability	No impact.
Ward-specific impacts	All wards
Workforce/Workplace	The potential to reduce the number of applications submitted to the Council may create more sustainable workloads, leading to improved service delivery in other areas.

Situation

- 1 There is currently a review of the whole planning system, and part of this is a review of the process as it relates to householder development. The HDCR identified that the current legislation is unclear and unduly bureaucratic. As a result, this review seeks to introduce controls that are more permissive yet impact-based. Many householder applications have little impact beyond the host dwelling, but require permission due to an arbitrary set of rules. A key principle underpinning this review is however that “clear and robust arrangements should be in place so that the interest of neighbours and the wider community and environment are sufficiently protected”.
- 2 Attached to this report is a table outlining the existing controls which are deemed to require amendment, and the proposed change. This report will outline below the 16 questions being asked in the consultation document, and the reasoning behind the response.
- 3 **Question 1 – Do you agree with the principle of an impact approach for permitted development?**
- 4 Recommendation: no objection. The Council deals with many applications for relatively minor proposals on isolated dwellings in the countryside, which have no impact on any neighbour. Equally, in more urban areas, harm is often caused by Permitted Development (PD) proposals that technically meet the criteria, but which do not address the tight-knit pattern of buildings.
- 5 **Question 2 - Do you agree with a restriction on development facing onto and visible from a highway in designated areas? Question 3 – should the restriction apply in the same way to all types of designated area?**
- 6 The consultation document outlines the importance of maintaining controls in Conservation Areas, but argues that because householder development potentially impacts more on the architecture of a building than the landscape, controls should be greater than, for example, in a national park. The proposal to increase controls to development facing onto and visible from a highway is welcomed, but it is recommended that the DCLG be advised that being “visible” would introduce too much scope for interpretation, and would not be workable. It is agreed that the controls in Conservation areas should be more stringent.

Changes to Permitted Development Rights for Householders – Consultation Paper

Development Control, Item 10

- 7 There are no plans to increase controls in respect of listed buildings, as these are already considered adequate.
- 8 Further research is being undertaken to investigate controls in respect of basements, and introducing PD rights for flats (there are currently none).
- 9 **Question 4 – Do you agree that, subject to any safeguards to protect households from abortive costs, that the existing right to compensation for 12 months after any change to the GPDO is made is reviewed?**
- 10 Section 108 of the T&CP Act 1990 currently enables compensation in such circumstances. Bearing in mind the public consultation surrounding this review, and the ample time to take steps to build a PD development, the rights to compensation should be reconsidered. Recommendation: Support review
- 11 **Question 5 – do you consider that local planning authorities should be able to make an article 4 direction without the need for the Secretary of State’s approval at any stage?**
- 12 Recommendation: Yes. An article 4 direction is a facility that enables the local authority to remove rights for developments or uses that would normally be PD. An example is the removal of rights to erect fencing on land sold and sub-divided into separate plots. At present, the process is quite cumbersome, and this would make it easier to respond quickly to locally-important matters, and to prevent inappropriate development.
- 13 **Question 6 – Do you consider that, subject to safeguards to protect householders from abortive costs, the existing right to compensation as a result of the making of an article 4 direction should be reviewed?**
- 14 Recommendation: Yes. Reasons as Question 4.
- 15 **Question 7 – should there be a requirement for planning authorities to review article 4 directions at least every five years?**
- 16 Recommendation: Yes. If the process is to become more streamlined, local authorities should at least regularly review the need to retain the direction. Rights of owners should not be withdrawn except in exceptional circumstances.
- 17 **Question 8 – would there be a benefit in making certain types of permitted development subject to a prior approval mechanism?**
- 18 **Question 9 – if so, what types of permitted development should be subject to prior approval and what aspects of the development should be subject to approval?**
- 19 The document proposes that a prior approval process similar to that which exists for some agricultural and telecommunications permitted development should be introduced. This would allow local authorities to consider for example, details of siting and appearance, but could not oppose the principle of the development. Recommendation: that this be opposed. The prior notification procedure is the cause of many complaints, and its purpose and remit is not readily understood by the public. If the new system is based on impact, the development should either be acceptable as PD or it should require planning permission. This half-measure creates expectations in objectors which cannot often be accommodated.
- 20 **Question 10 – would there be a benefit in having a separate development order containing just permitted development rights for householders?**

Changes to Permitted Development Rights for Householders – Consultation Paper

Development Control, Item 10

- 21 Recommendation: it is not obvious what benefit this would produce, as the existing document is clearly broken down by category. Containing permitted development criteria for all forms of development in a single information source is easiest.
- 22 The document proposes to amend definitions currently contained in the GPDO to clarify terms such as “the original dwellinghouse”, “original rear wall”, etc. **Question 11 – do you have any comments on the proposed definitions?** Recommendation: further clarification is welcomed.
- 23 The biggest area of proposed change is in Part 1 of the GPDO, which contains the criteria for extending homes and constructing domestic outbuildings. At present, there is a control by volume, but this can be inappropriate in some cases. This would be removed and a host of replacement criteria would be introduced (see table at end of the report). These link to the concept of impact, but there is concern that in some cases even with these additional controls (which do not exist at present), there could still be loss of light and overshadowing of neighbouring properties. **Question 12 – do you agree with the proposed limits for extensions?** Recommendation (1) this is an improvement on the existing situation, but a useful measure of impact may also be to introduce the 45°-rule. This is outlined in the Council’s Supplementary Planning Document ‘Home Extensions (extract attached), which is based on guidance produced in the British Research Establishment’s document ‘Site layout planning for daylight and sunlight: a guide to good practice’. This is used as a benchmark by many local authorities. (2) the requirement for 2-storey rear extensions to be no closer than 7m to a rear boundary would breach the Council’s own SPD, and in some circumstances would be unlikely to prevent loss of amenity to dwellings beyond; (3) the ‘private garden area’ should be defined to prevent access paths, driveways, and utility spaces being included in the calculations.
- 24 At present, dormer windows normally only require planning permission if facing a public highway or within a Conservation Area, and this has resulted in some additions which do not respect the form of the existing dwelling being constructed as Permitted Development. **Question 13 – do you agree with the proposed limits for roof extensions?** Recommendation: the requirement for spacing around the dormer is welcomed, as is the control of side-facing dormer windows.
- 25 The controls under Class C are proposed to be amended to allow the installation of solar panels projecting 150mm. The report rejects the concept that the percentage of roof coverage should be restricted. **Question 14 – do you agree with the proposed limits for roof alterations?** Recommendation: although no alteration to the front of the property would be PD in a Conservation Area, it is considered that side elevations may be just as visible, and should be restricted. By default, the requirement for front rooflights to be controlled in Conservation Areas is welcomed. Consideration should be given to restricting by percentage the area of roof coverage in the interest of visual amenity, although it is accepted that this is a balance to be made against the benefits of energy efficiency.
- 26 Wide scale changes are also proposed to the provision of outbuildings and structures within the curtilage of buildings. **Question 15 – do you agree with the proposed limits for curtilage developments?** In principle, the changes are supported but recommend that (1) a definition of “single storey” will be required, as it presumably could prevent use of an upper floor for storage; (2) “private garden area” will again require definition; (3) the control of raised terraces and verandahs appears to conflict with the positive requirement that decking up to 0.3m high would be permissible; (4) the floorspace limit of outbuildings within the curtilage of a listed building does not address the potential harm which can be created by inappropriate design. A limit on

Changes to Permitted Development Rights for Householders – Consultation Paper

Development Control, Item 10

roof type e.g. pitched, and materials should be considered; (5) consideration should be given to specifically including controls over raised playhouses.

27 At present, there is no restriction on hardsurfacing within gardens. The report suggests in some areas, a restriction should be imposed limiting hardsurfacing to no more than 50% of the garden, with a requirement that the surface should be porous. This is due to the potential for flooding arising from poor surface water disposal. However, it rules out national guidance, stating that it would be a disproportionate response, and that local authorities should issue their own article 4 directions in appropriate cases. **Question 16 – do you agree that there should be no national restriction on hard surfaces?** Recommendation: No. As the effects of climate change are still emerging, there is no reason to think unaffected areas will not be prone to flooding in the future. A compromise would be to omit the reference to a percentage of site coverage, but to require all hardsurfacing nationally to be of a porous nature.

28 Subject to the items outlined above, the changes are welcomed, and will go some way to reducing the harm that some permitted development can cause. It is not however clear that these controls will necessarily reduce the perceived bureaucracy.

29 Risk Analysis

The issue of risks is identified by the government in its own report, and no additional are considered to arise for this authority.