

CAIRNGORMS NATIONAL PARK AUTHORITY

**Title: CNPA RESPONSE TO THE SCOTTISH GOVERNMENT
CONSULTATION ON HOUSEHOLDER PERMITTED
DEVELOPMENT RIGHTS**

**CNPA RESPONSE TO THE SCOTTISH GOVERNMENT
CONSULTATION ON AMENDMENTS TO THE
MODERNISED PLANNING SYSTEM**

**Prepared by: BRUCE LUFFMAN
PLANNING MONITORING & ENFORCEMENT OFFICER**

Purpose: To inform the Committee of these two consultations and to incorporate comments from the Committee into their final response to the Scottish Government.

HOUSEHOLDER PERMITTED DEVELOPER RIGHTS CONSULTATION

Background

1. In September 2010 the Scottish Government issued a consultation paper concerning proposals for the changing of the rules that determine what type of householder development needs planning permission in relation to existing dwelling houses <http://www.scotland.gov.uk/Publications/2010/10/13084130/0> It is part of the Government's overall proposals for the modernisation of the planning system. At present permitted development rights (PDR) are set down in the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended. This effectively grants a general planning permission across Scotland for various classes of development, by removing the need to apply to a planning authority for planning permission where a developer complies with the conditions and restrictions associated with each class.
2. It is now proposed to modify householder PDR to the extent that it would allow householders increased freedom to develop their property and would remove the need for some planning applications.
3. The Scottish Government considers that there are three main issues to be addressed within the 1992 Order:

CAIRNGORMS NATIONAL PARK AUTHORITY
Planning Paper 7 7 January 2011

- The current rules are too restrictive and many minor and uncontroversial proposals end up needing planning permission
 - Since 1992, the Order has been amended more than 25 times so it can be difficult for users to be sure of what rules are in operation;
 - Partly as a consequence of the above, the rules can be complex to understand and difficult to apply.
4. The CNP Planning Committee does not normally deal with applications that fall into the area that are being addressed by these proposals but the effect of these changes could impact on the aims of the National Park as well as burdens of time and work on our planning service and therefore it is important that we respond to this consultation.
5. Research and engagement with the relevant stakeholders since 2006 has found that:
- Approximately 50% of the 40,000 or so planning applications made each year in Scotland relate to householder development;
 - The largest category of household development relates to extensions and a majority of these are single storey rear extensions;
 - 97% of householder applications are approved and a majority are not altered during the processing of an application;
 - The rules should be changed to remove single storey rear extensions from the requirement to get planning permission whenever possible and to allow householders greater freedom to make minor alterations without the need for planning permission; and
 - a 20-25% (circa 4,000 application per annum) reduction in householder planning applications is realistic without unacceptable risks to public amenity
6. It is also anticipated that the estimated reduction in householder applications could benefit Planning Authorities through a reduction in planning applications, planning appeals, development enquiries and enforcement activity. Although the income to planning authorities will be reduced by £640,000 due to the loss of 4,000 application fees
7. The consultation paper poses a list of 17 questions, and the assessment and responses to those questions will form the basis of this report. The response to the consultation paper has to be submitted by 14th January 2011.

Summary of the Main Changes Proposed

8. The proposal is to simplify and potentially remove approximately 20-25% of householder planning applications by making the following key changes:

- **Creating 3 New Classes.** This will mean it is easier to apply development proposals to the appropriate Class and for the limitations in each Class to be more relevant. In particular, creating a Class for a single storey extension should mean many "rear" single storey extensions would become permitted development
- Expanded the use **principal elevation** to distinguish what is usually the front and rear of a house, in order to relax restrictions on development in rear gardens;
- Allow alterations and improvements to houses or flats (other than extensions) if within a **1 metre "bubble" around the walls or roof of a house or flat.** This removes the current complex provisions for satellite dishes and some domestic microgeneration equipment and clarifies the position on roof lights;
- **Introducing a new site coverage criterion** to replace the current floorspace limits and 30% ground coverage criterion with a limitation meaning that there must be at least the same area of garden remaining undeveloped as developed. This would, in most cases, allow a visual assessment rather than having to calculate precise areas;
- New definition for calculating the **height of a building and external dimensions.** This should allow greater protection for neighbours on sloping ground and using external dimensions is more practical and straightforward to assess; and
- Maintain strict controls for development within **conservation areas** and within the curtilage of listed buildings.

9. The proposed changes to the classes are summarised in the table below:

Current Class of the 1992 Order	Proposed Changes	Proposed Classes
Class 1 (enlargement, improvement or other alteration of a dwellinghouse)	Divide into 3 separate Classes to make it easier to identify the appropriate Class of permitted development and to apply more relevant limitations to each Class. For example, the proposed Order separates two storey extensions from single storey extensions, and hence the proposed limitations that are not the same as for a single storey extension.	Class 1 - single storey ground floor extensions. Class 2 - all other extensions. Class 3 - and any other improvement or alteration not involving an enlargement.

CAIRNGORMS NATIONAL PARK AUTHORITY
Planning Paper 7 7 January 2011

Class 2 (alteration to the roof of a dwellinghouse, including enlargement of the dwellinghouse)	Divide into 2 separate Classes	Class 4 - covering an enlargement by way of a roof alteration (e.g. a dormer). Class 5 - any other improvement or alteration to the roof that is not an enlargement.
Class 3 (provision of any building or enclosure or pool within a curtilage)	Divide into 2 separate Classes	Class 6 - any outbuilding. Class 6A - any other building, engineering, installation or other operation
Class 4 (hard surfaces)	Becomes new Class 6B (Subject to a new standard condition)	Class 6B.
Class 6 (satellite dishes) Classes 6A to 6F (domestic microgeneration)	Classes for Satellite Dishes and some domestic microgeneration equipment are no longer required, as this type of development would fall within the proposed Classes 3, 5 or 6A.	Would fall within the proposed Classes 3, 5 or 6A.
Class 7 (gates, walls, fences etc)	Becomes new Class 6CB	Class 6CB

10. One of the key differences is the Principal Elevation Concept which is predicated on the assumption that every house has one elevation designed as its main or principal elevation. This will normally be the front of the house and having identified the principal elevation, the side and rear elevations can be identified. This approach has been discussed and concerns have been raised even though this system has been used in England since 2008. In the vast majority of cases, the front and back of a house are commonly understood.
11. It is recognised that this principal elevation concept introduces complexities, in particular isolated houses in the countryside and this is highlighted in the CNPA response under Question 4 in Annexe I.

12. Two of the key questions for the Cairngorms National Park are Questions 8 and 9 which relate to the withdrawing of PDR in Conservation Areas (Granttown on Spey, Ballater, Braemar and Inverey in the Park) and the issue of Article 4 Directions. These are Directions by the Scottish Minister authorising the Planning Authority to require the submission of planning applications for a specified range of operations and changes of use which would not normally require planning consent. Both Ballater, Braemar and Inverey have Article 4 Directions on their Conservation Areas.
13. The CNPA response proposes that National Parks should be seen as a special case and makes two proposals of either a prior notification process or the power to withdraw PDR on the basis of assisting NPAs in the discharge of their purpose of collectively achieving the National Park aims as required by the National Parks (Scotland) Act 2000
14. There are concerns that the three main issues identified by the Scottish Government will not be achieved. There is likely to be 4,000 less planning applications, but the hope that the process can be speeded up and will permit a freeing-up of resources for the planning authorities is unlikely to be met because of the complexity of the proposals and the uncertainty for the householder. This will probably result in as many site visits as now, more queries to the planning officer from householders and a likely rise in queries and complaints from neighbours and Community Councils.
15. The proposed CNPA response to this consultation is to be found at Annexe I.

Recommendation: The Committee agree the response to the consultation at Annexe I

AMENDMENTS TO THE MODERNISED PLANNING SYSTEM CONSULTATION

Background

16. The proposals in this consultation amend certain legislative requirements in relation to development management procedures and planning appeals introduced in August 2009. <http://www.scotland.gov.uk/Publications/2010/10/20093159/0> The proposals are a result of practical experience and the issues that have been raised by applicants, planning authorities and the public. The objective is to ensure that statutory planning procedures are proportionate, efficient and effective.
17. This exercise is part of a wider review of the first 12 months of the operation of the new procedures which is underway. This consultation package includes issues in areas

such as pre-application consultation with communities and neighbour notification and advertising of planning applications, which were identified at an early juncture as causing practical difficulties. A number of the changes in the consultation paper are technical and unlikely to impact on business or other users of the planning system.

Summary of the Main Changes Proposed

18. The main changes proposed are primarily for pre-application consultations (PAC), neighbour notification and advertising of planning applications and other changes associated with consultations with Network Rail and the Crofters. There are a number of other technical proposals for change.
- Remove or reduce the 12 week minimum period for PAC for an application for change of condition (Section 42);
 - Reduction of the 12 week minimum period for PAC generally or create a power to specify types of application where PAC does not apply;
 - Remove the need to advertise a neighbour notification for neighbouring land where there is no premises;
 - Remove the requirement to advertise development plan departures but advertise major development departures which impact significantly on communities;
 - Set a charge nationally for advertising when submitting an application where advertising will be required or alternatively increase planning fees and remove the need to separately charge for advertising and
 - Introduce new criteria for consultations with Network Rail and the Crofters Commission.
19. The CNPA is not directly involved in the registration and validation of planning applications and therefore does not make requirements on the PAC or organise the neighbouring notification process at that stage. However, the Government is keen to speed up the planning system and aspects of the changes do impact on the CNPA. This is relevant with regard to departures from our Local Plan and to the need to sometimes renotify neighbours at a later stage in the process after call-in.
20. The CNPA also has an interest in the new criteria for consultation for applications that involve Network Rail and the Crofters Commission. There are very few applications in the Park in regard to Network Rail but we have a consistent number of applications for new development on croftland in the Park and the responses from the Crofters Commission are important for the CNPA's planning committee. The new criteria are to be welcomed and key issues made clear in determining decrofting of croftland in the

CAIRNGORMS NATIONAL PARK AUTHORITY
Planning Paper 7 7 January 2011

response from the Crofters Commission. The CNPA supports the long term sustainability of crofting but the determination of crofting applications must have regard to the protection of agricultural productivity and viability potential of individual crofts.

21. The proposed CNPA response to this consultation is to be found at Annexe 2.

Recommendation: The Committee agree the response to the consultation at Annex 2

Bruce Luffman
planning@cairngorms.co.uk
22 December 2010