

**CAIRNGORMS NATIONAL PARK AUTHORITY**

---

**Title: CNPA RESPONSE TO THE SCOTTISH GOVERNMENT CONSULTATION ON NON-DOMESTIC ELEMENTS OF THE TOWN & COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (SCOTLAND) ORDER 1992**

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

---

**Purpose:** To inform the Committee of this consultation and to seek agreement from the Committee on the final response to the Scottish Government.

**NON-DOMESTIC ELEMENTS OF THE PERMITTED DEVELOPER RIGHTS (PDR) CONSULTATION**

**Background**

1. In March 2011 the Scottish Government issued a consultation paper concerning proposals for the changing of the rules that determine what type of non-domestic development needs planning permission in relation to exemptions of certain development <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 non-domestic PDR to the extent that it would allow developers increased freedom to develop their property and would remove the need for some planning applications. The Committee will recall that a similar consultation on Householder PDR was discussed in January 2011.

3. The Scottish Government considers that there are four main issues to be addressed within the 1992 Order:
  - establishing a clear purpose for permitted development rights and making the provisions of the GPDO more proportionate, streamlined, clearer and easier to use;
  - reducing bureaucracy and the need for planning applications where scrutiny adds little or no value individually or cumulatively;
  - updating and assessing the continuing relevance of the various classes; and
  - aligning the GPDO with the planning reform agenda, in particular with current legislation and planning policy.
4. The consultation paper poses a list of 27 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 1<sup>st</sup> July 2011.

### **Summary of the Main Issues for the CNPA**

5. The CNPA, in conjunction with LL&TNPA, is keen to see that the Scottish Government should take account of the two National Parks and the reasons for their designation and obligations under the National Parks (Scotland) Act 2000.
6. The main area of concern with regard to this consultation relate to the landscape and the impact on the landscape from construction and works which may become permitted development under the new legislation relating to the PDR Order. This concern is predicated on the impact to the landscape by hill tracks and other private roads and ways.
7. There are a number of other areas which impact on the area as a National Park and they include caravan parks, open air markets, waste and temporary structures.

### **Hill Tracks**

8. By way of background, there have been two seminars held in 2010 and organised by the CNPA and SNH which discussed hill tracks from two perspectives – the landowners/managers and the non estate users of hill tracks. These meetings gave an opportunity for a full discussion on the issues, a greater understanding of the planning perspective and advice on best practice. However, it was apparent that the planning aspect was a “grey area” and required greater definition and with specific discussion in the Scottish Parliament, it was decided that new thinking should be incorporated into a new permitted development Order.

9. The CNPA response to this consultation at Questions 21- 23 centres on the need for a consent procedure to be in place which would be akin to the 28 day prior notification procedure that local authorities have in place for agricultural buildings. This procedure requires a farmer to notify the local authority planning department with plans of his intentions for the construction of an agricultural building on his land. The local authority has 28 days to require a planning application, make comment or not make comment. If there is no need for a planning application, the landowner proceeds with the construction. The criteria for the need for an application are siting, design and access.
10. This procedure would give the CNPA the opportunity to have some control over the construction of a hill track particularly in respect to the impact on the landscape. There is tension about what is considered to be maintenance of an existing track and in order to have consistency; the CNPA proposes that all works have prior approval before works take place.
11. There will be a need to change the legislation with regard to the consent procedure because the CNPA does not currently have the powers to require the 28 day notification procedure. This could be incorporated into the Non Domestic element of the new Order which would relate back to the CNP designation order.
12. The CNPA, with LLTNPA and Scottish Natural Heritage (SNH), have held discussions with the Scottish Government to propose that National Scenic Areas (NSA) should be denotified in Scotland's National Parks, as a way of simplifying the clutter of multiple designations. Integral to this proposal is that hill tracks, agricultural and forestry operations currently within the scope of the PDR would not be covered by any PDR class in the National Park. The CNPA has proposed that all such works should require prior notification in order to consider whether a planning application is required. The CNPA has also proposed that the landscape significance of National Parks is recognized explicitly by a statement in Scottish Planning Policy (SPP), putting National Parks on par with NSAs.
13. The response proposes that all private roads and ways come under this notification procedure and will negate the need to define what a hill track is as compared to a track per se.

#### **Other Areas**

14. The CNPA is keen to support local economic development in the Park and local farmers markets is an operation that would gain from more PDR but it is reliant on the local authority and their licensing capabilities. Question 20 relates to this issue.
15. The issue of caravan parks is one that is becoming more important from a monitoring point of view. The Caravan Act 1960 is in need of a major overhaul and under Question 19; this is proposed along with the proposal that all PDR are removed.

16. Question 26 relates to Class 14 in the current Order and is one that has provoked a number of incidents within the Park. The response proposes that the PDR is removed in the Park because of the consequences of impact on the landscape and becomes a requirement to be covered by a planning application.
17. 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

**Bruce Luffman**  
[planning@cairngorms.co.uk](mailto:planning@cairngorms.co.uk)  
**22 December 2010**