

## **Proposed Programme for Reviewing and Extending Permitted Development Rights (PDR) in Scotland**

1. Do you have any comments on the proposed Work Programme, including the proposed phasing and groupings?

Please provide any comments.

Scottish Environment LINK welcomes the Scottish Government's review of Permitted Development Rights (PDR) at a time when the context for development, in the form of the climate and biodiversity emergencies, is changing rapidly. A stable climate and resilient natural environment underpin long-term public interest and wellbeing and therefore any changes to PDR should take full account of and respect the need to support action to deliver on both of these essential/priority outcomes.

Given this, we suggest **grouping and giving priority** within the work programme to all those development types that have been identified as **helping to address the global climate emergency**: micro-renewables, peatland restoration, habitat ponds, electric vehicle infrastructure, active travel and district heating. Snow sport development should be considered a low priority within the work programme, especially considering the over-reliance on snow-making infrastructure due to unreliable snowfall which creates significant localised greenhouse gas and unregulated diesel particulate emissions. The potential conflict with Scotland's climate change targets and transition to a low carbon economy suggests the development type should be low priority.

We consider that **habitat pond creation should be moved into an earlier phase** of the programme as there is a pressing need for the status of this type of development to be clarified to provide certainty to developers at a time when numbers of certain species are declining rapidly. These types of ponds support different species such as wading birds and amphibians such as great-crested newt and natterjack toad and benefits also include contributing to the attenuation of extremes in water availability, improving local ground conditions and vegetation and reducing the extent and spread of water-logging of adjacent ground, reducing further compaction and soil degradation.

In light of the climate emergency and biodiversity crises, we consider that urgent consideration should be given to expanding the review to assess the whole of the General Permitted Development (Scotland) Order (GPDO). Currently **the GPDO includes development types that result in high levels of emissions**, and which require lifecycle greenhouse gas emission assessments as part of their inclusion in national developments, as set out in the Planning Act. Certain development types, such as port and airport developments, would benefit from enhanced scrutiny in order to ensure they are not hindering the achievement of



Scotland's net-zero emissions targets. In any case, **these types of development are not 'minor, uncontroversial developments where it is very unlikely that planning permission would be refused,'** rather they are part of national infrastructure and should be contributing toward the actions that are needed to address the climate emergency and biodiversity crises.

**In summary,** we support developments that address the climate and biodiversity emergencies and do not support those that make no contribution to tackling these or those that exacerbate the existing problems.

2. What are your views on the accuracy and scope of the information described in the Sustainability Appraisal report as regards:

Responses can be made to the Sustainability Appraisal report in general or with regard to specific development types. Please make clear where your comments are specific to a particular development type or types.

(Please give details of additional relevant sources.)

a) environmental baseline?

Section 4.4. of the Sustainability Appraisal (SA) recognises that there are issues with establishing the baseline at a local level due to uncertainty around the extent of PDR utilisation and changes in different areas. It also recognises the strategic nature of the appraisal. This raises questions regarding the ability of the SA to properly assess the potential effects of each of the development types.

The **baseline should also acknowledge the pressure on all biodiversity**, not just protected sites. The UN's Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) highlighted in May<sup>1</sup> 2019 how global nature was declining at "rates unprecedented in human history" and that "transformative changes" were needed. Additionally, the 2019 State of Nature reports showed that on average, we are still losing wildlife in terms of both species' abundance and occupied range across Scotland<sup>2</sup> and in terms of Scotland's progress against the Aichi targets, the 2017 SNH report on Scotland's progress stated that of the 20 targets, 7 were on track, 12 were showing progress

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<sup>1</sup> <https://www.ipbes.net/news/Media-Release-Global-Assessment>

<sup>2</sup> <https://nbn.org.uk/stateofnature2019/reports/>



but insufficient to meet the target and 1 target (financial resources) was getting worse<sup>3</sup>.

Referencing Scotland's designated landscapes and Wild Land Areas in the environmental baseline for biodiversity, flora and fauna would recognise the role of land as nationally important in achieving the recovery and enhancement of biodiversity, flora and fauna. Designated landscapes and Wild Land Areas can address declines in biodiversity, not least through land restoration programmes (the IUCN peatland programme details the biodiversity benefits of peatlands which are home to specially adapted plant life and associated with particular birds, invertebrates and mammals) whilst also mitigating against the worst impacts of climate change.

### **The baseline also appears to have the following omissions:**

Special Landscape Areas – designated by local authorities of being of particular cultural or natural heritage importance, and often areas of natural beauty and amenity.

Pre-1919 buildings – the National Performance Indicator for the historic environment is the condition of pre-1919 buildings. This should be referenced as context, as some future PDRs may affect these assets. Purpose of planning - the 2019 Planning Act for the first time defined the purpose of planning as “to manage the development and use of land in the long-term public interest”, defined in terms of contributing to sustainable development or the achievement of the national outcomes. This should be referenced.

Sustainable development - The United Nations Sustainable Development Goals are only mentioned in the section on Allotments but should also be referenced in the baseline.

3. What are your views on the predicted effects set out in the Sustainability Appraisal report as regards:

a) environmental effects?

### Digital communications infrastructure

LINK has **concerns regarding** the potential relaxation of controls on **digital communications** infrastructure, particularly due to the range of environmental

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<sup>3</sup> Scottish Natural Heritage. (2018). Scotland's Biodiversity Progress to 2020 Aichi Targets: Interim Report 2017

<https://www.cbd.int/doc/world/gb/gb-nr-oth-p2-en.pdf>

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and health concerns regarding 5G technology<sup>4</sup>. The SA acknowledges that many of the effects are uncertain.

### Agricultural buildings

We consider that **prior notification should be retained for agricultural buildings**; however, there is a concern that this could be used as a route to further development and applications for change of use to residential or commercial (if conversion is given PDR). There must be some stipulation that planning authorities can control this without any possibility of appeal in order to eliminate this loophole. The siting of new housing must be linked to transport, economic activities, and the delivery of public services which would be difficult under PDR when not plan-led. Heritage impacts are also a concern, such as the conversion of farm buildings at Culloden battlefield.

We consider **more guidance** should be given to planning authorities in how to **assess impacts on nature conservation interests** to ensure natural heritage is protected through the prior notification process. Prior approval can currently be required for the siting and design of buildings but it is not clear to what extent nature conservation issues can be a consideration in this regard. The LINK Hilltracks campaign members have found this to vary across local authorities, and even within them.

### Hilltracks

We **fully support** the conclusions and recommendations from the **LINK Hilltracks subgroup's 2018 report** ([Changing Tracks](#)) regarding access tracks. The unpredictability of the adverse effects for landscape and natural heritage of these developments brings into question their suitability for PDR, as the Scottish Government says, these 'typically relate to minor or uncontroversial developments or changes associated with an existing development'. The Scottish Government is planning to review the current system of PDRs for agricultural and forestry tracks in the light of significant public concern. This review tells us that we cannot always know if a change to permitted development will be controversial or not with respect to highly valued landscapes. At a minimum, we would suggest that the unpredictability provides a rationale for setting limits on where developments can take place (respecting areas that are sensitive, protected for their landscape or cultural value or of national importance) in the form of a narrow scope, geographical limits, guidance on design, and a prior approval mechanism. This would ensure there is some overview and check on developments in sensitive areas given the predicted negative effects.

### New ground-based masts, new access tracks and non-domestic micro-renewable wind turbines

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<sup>4</sup> [http://www.eclipse-mechanism.eu/documents/15803/0/EMR-KnowledgeOverviewReport\\_FINAL\\_27042018.pdf/1326791c-f39f-453c-8115-0d1c9d0ec942](http://www.eclipse-mechanism.eu/documents/15803/0/EMR-KnowledgeOverviewReport_FINAL_27042018.pdf/1326791c-f39f-453c-8115-0d1c9d0ec942)



The SA predicts potential significant negative effects on cultural heritage and landscape arising from the proposed option for PDR for new ground-based masts, new access tracks and non-domestic micro-renewable wind turbines. The SA notes that the predicted effects for new ground masts are case specific: 'the scale and significance of these effects will reflect the location of the mast in question and sensitivity of the surrounding landscape'. **The same** could be said of **new tracks and non-domestic micro-renewables wind turbines**: their location and the sensitivity of the surrounding landscape will alter the predicted effects and applications may raise case-specific issues that require assessments to be made by statutory bodies depending on location.

### Peatland restoration and habitat ponds

**We fully support the introduction of PDR for peatland restoration and habitat ponds.** With regard to ponds, we need guarantees that they should not be over-engineered as flood defences that then do not serve wildlife. On mitigating effects of ponds on landscape the SA recognises that design guidelines could be created for size and design. Guidance could also include sensitivity to characteristics of setting. We propose that guidance for minimising environmental impacts, but maximising biodiversity should feature for all new development types, not just those that are intended to bring benefits for biodiversity. Ponds have been and are multi-functional and the current PDR artificially divide these functions, causing confusion. The current wording is vague and probably dated. With greater integration of "agricultural" and "environmental" management activities and awareness on farms as to what may be considered as for "agricultural purpose" is increasingly (and rightly) blurred. Granting PD for "wildlife" ponds simply brings them into parity with "agricultural" ponds, but in reality, they should already be the same.

### Cumulative effects

In terms of **cumulative effects**, there is considerable uncertainty over cumulative effects across the different development types due to the level of uncertainty over which individual PDR changes will be identified in the Proposed Work Programme. For example, access tracks associated with a range of developments, whilst not necessarily individually contentious could, through cumulative impacts, be contentious because, in combination, they have landscape and biodiversity impacts.

### Loss of fees

More generally, LINK members are **concerned about the loss of income** from planning fees and developer contributions at a time when the resourcing of planning authorities is already under pressure. A further loss of income will inevitably affect the ability of planning authorities to assess other more complex developments, including those requiring EIA. This issue has also been flagged by the RTPi and others in England.



4. What are your views on the findings and the proposals for mitigation and monitoring of effects set out in the Sustainability Appraisal report with regard to:  
a) environmental baseline?

Being able to monitor the positive effects, as well as the negative effects, of each change to PDR is a pre-requisite to demonstrating the role of planning in combating climate change and restoring biodiversity. The SA recognises that for each development type appropriate monitoring will need to be considered. There must be provision for review of any new PDR introduced, and the provision to revoke or amend these if necessary.

**Learning from the independent monitoring of permitted development rights** for hill-tracks in Scotland could inform approaches to relaxing rules for other development types. Scottish Environment LINK's [Changing Tracks](#) report published in 2018 used evidence from three years of monitoring of the implementation of the new prior notification process in 11 local authorities and the 2 National Parks and made recommendations accordingly. The report shows that whilst prior notification has brought some benefits, these are outweighed by the remaining serious deficits.

5. Do you have any other comments on the Sustainability Appraisal report?  
Please provide any comments.

It is unclear why a Sustainability Appraisal (SA) has been chosen over a **Strategic Environmental Assessment (SEA)**. There are social and economic impacts from changes to the legislation, but this consultation is similar to many others the Scottish Government has undertaken on planning matters, or Local Authorities on their development plans. Whilst it has been confirmed that the SA incorporates the requirements of SEA, and therefore complies with the Act, we consider that the environmental impacts are somewhat diluted amongst the social and economic ones in the main body of the report. For these reasons we do not consider that this model should become standard for the assessment of Scottish Government proposals.

For development types where environmental effects are predicted to be significantly negative or where we cannot adequately predict the extent of environmental effect, careful consideration should be given to whether the development type sits with the purpose of a PDR (which are intended for minor and uncontroversial and standard types of development). If it proceeds to further consultation, the PDR should be narrowly defined with conditions and limitations.





We would also welcome further assessment of how development types that proceed could apply a principle of improvement to the environmental baseline as a condition for benefiting from a PDR. In light of the climate emergency and biodiversity crises, PDR should not come at a cost to priority habitats, designated landscapes or Scotland's Wild Land Areas, given the potential for these habitats and land to deliver natural climate solutions and slow the rate of biodiversity loss, as well as having important socio-economic and wellbeing benefits.

This response represents the collective view of LINK's Planning Group. Members may also respond individually in order to raise more detailed issues that are important to their organisation. This response is supported by the following member bodies:

Association for the Protection of Rural Scotland  
Badenoch and Strathspey Conservation Group  
Buglife  
Froglife  
John Muir Trust  
National Trust Scotland  
Planning Democracy  
Ramblers Scotland  
RSPB Scotland  
Scottish Farming and Wildlife Advisers Group  
Scottish Wild Land Group  
Scottish Wildlife Trust  
Woodland Trust Scotland

Scottish Environment LINK is the forum for Scotland's voluntary environment community, with 39 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society.

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