

Consultation Response
Permitted Development Rights –
Phase 1 priority development types
12 November 2020



Scottish
Environment
LINK

This response was prepared by Scottish Environment LINK's Planning Group and considers the consultation questions posed for following development types:

- Digital Communications Infrastructure
- Agricultural developments
- Peatland Restoration
- Development related to Active Travel.

Digital Communications Infrastructure

1. Do you agree with an increase in permitted height for new ground-based masts to 30 metres outside designated areas, subject to the existing prior approval regime on siting and appearance? If you disagree please explain why

LINK is pleased to see that the Scottish Government is no longer proposing extend this PDR to designated areas. We agree with this proposal but believe that even in non-designate area developers should sensitively site and design masts. Non-designated land is important to Scotland's cultural heritage and vulnerable to being negatively impacted by insensitive or unthinking development.

To appropriately protect undesignated land the factors the prior notification/ prior approval scheme considers should be expanded to include the archaeology of the site and the environmental and biodiversity impacts of development.

2. Do you agree that existing ground-based masts should be able to be increased in height up to 30 metres (i.e. the same maximum height as for new masts proposed in Q.1 above) and that the increase should be limited to no more than 50% of the height of the original mast (whichever is the lower)? If you disagree, please explain why

LINK agrees this PDR should be extended to non-designated areas but disagrees that it should be extended to designated areas.

Extending PDR in designated areas would mean development can go ahead on our most valued heritage without proper scrutiny. This would increase the risk of degradation to our built, cultural and natural heritage, environment, landscapes and biodiversity.

It may enable development that impacts flood risk, as the Sustainability Appraisal highlights that increasing PDR to make digital communications infrastructure taller and wider may have "minor negative impacts on water and soils will result from any increases in the extent of permeable surfaces." It would also likely impact the visual amenity of designated landscapes.

Development in designated areas should be subject to the full rigours of the planning system to ensure it is appropriately scrutinised and negative impacts on our most sensitive places are either avoided or mitigated. Research by the National Trust for Scotland supports this position as in 2018 it

found there is overwhelming support for *greater* measures to protect Scotland's most scenic landscapes¹.

Moreover, research by the Trust found that more than 60% of people feel they had no influence on planning decisions affecting their local area². Retaining the planning system will also make sure communities continue to have a voice in a democratic planning system.

Current planning policy leaves designated land vulnerable where it shares a border with undesignated land, therefore LINK suggests that if this PDR were to be extended Scottish Government explore creating 'buffer zones' that extend into undesignated land from designated land landscape. A set 'buffer zone' may not be appropriate as the visual impact of infrastructure on undesignated land from designated land will change depending on the landscape profile.

Developers should sensitively site and design masts to complement the character of the landscape in which they are situated and reflect any local community concerns. Developers should also be encouraged to deliver enhanced public benefits in tandem with expansion work.

3. Do you agree that we should allow existing masts which are above 30 metres in height to be increased to up to 50 metres in height? If you disagree, please explain why

LINK agrees with the proposal but believes it should only apply to undesignated areas, as the potentially damaging impacts of extending this PDR to designated areas outlined in Q2 would only be exacerbated by allowing existing masts to be increased to up to 50m tall.

Also as previously stated in Q2, if this PDR were applied to undesignated areas, we believe there should be buffer zone extending on the border between undesignated and designated land.

4. Do you agree that we should allow existing masts which are greater than 50 metres in height to be increased by up to 20% of the height of the original mast? If you disagree, please explain why

LINK does not agree this should be increased in designated areas for the same reasons outlined on our response to Q2 and Q3. Local Authority planning departments should continue to scrutinise development proposals and be enabled to put in place mitigation measures to limit damage.

LINK recommends provision is included to ensure developers do not use the three PDRs referred to in Qs 2, 3 and 4 consecutively, as if these were to be used consecutively a 25m mast could be extended to become 30m tall, then 50m tall, then 60m tall. This could result in masts in designated areas increasing in height by tens of meters, for example an existing 20m mast could become 60m tall.

We would welcome more information on the benefit of such an increase in height before agreeing to the proposal for undesignated areas. Vodafone state that "under current rules, most UK masts are around 25m (82ft) tall. But in fact 50 metre masts would provide a better, more far-reaching signal in many areas"³. This suggests a maximum height of 50m is sufficient. Additionally, there is little

¹ National Trust for Scotland 'Scots want their scenic landscapes better protected' 2018 <https://www.nts.org.uk/stories/scots-want-their-scenic-landscapes-better-protected>

² 2018 <https://www.nts.org.uk/stories/planning-without-the-people>

³ Vodafone 'Mobile phone masts: Everything you need to know' 2020 <https://newscentre.vodafone.co.uk/features/mobile-phone-masts-everything-you-need-to-know/>

precedent for this height increase in other European countries, where generally a height limit of 50m is imposed⁴.

We also recommend engagement with communities to understand what the maximum height communities and landscapes can tolerate is.

5. Do you agree that we should allow an increase in the width of existing masts by up to 2 metres or, if greater, one half of the width of the original mast (i.e. the increase is on the widest part of the mast and including any equipment)? If you disagree, please explain why

LINK does not agree this should be increased in designated areas as it may have negative impacts on water and soils, which could in turn impact on biodiversity and increase flood risk. Given the potential impact of development, we believe the full scrutiny of the planning system should be retained, as this will ensure adequate protection of Scotland's most sensitive areas.

6. Do you agree that any height or width increase within a designated area should be subject to prior notification/prior approval in order that visual impacts can be assessed? If you disagree, please explain why

If the above PDRs were to be extended into designated areas, development should be subject to prior notification/ prior approval.

What factors the prior notification/ prior approval process considers should be expanded beyond visual impacts to include environmental impacts. Moreover, in addition to, or as part of, the prior notification/ prior approval system, developers should:

- be encouraged to follow guidance on the appropriate siting and design of masts, for example, Scottish Natural Heritage's guidance on radio masts. This contains guidance for sensitively siting radio towers, such as choosing viewpoints to situate infrastructure on sites that are most concealed from significant viewpoints and avoiding siting infrastructure next to wild sites⁵.
- be encouraged to proactively enhance the public benefit of digital communications infrastructure (e.g. by funding new walking paths for local communities or investing in enhanced protection for local species).
- be required to, where appropriate, share facilities and infrastructure if this would lessen the number of masts and base units required.

7. Do you agree that we should increase the maximum distance that replacement masts may be from their original location from 6m to 10m, outside designated areas? If you disagree, please explain why

⁴ <https://www.5gradar.com/features/5g-towers-everything-you-need-to-know-about-5g-cell-towers#:~:text=In%20parts%20of%20Europe%2C%20operators,an%20area%20it%20can%20serve;https://www.ispreview.co.uk/index.php/2019/04/local-opposition-making-uk-5g-upgrades-to-4g-masts-difficult.html>

⁵ Scottish Natural Heritage 'Siting and Design Guidelines for Mobile Telecommunications Developments in the Highlands and Islands' 2002 <https://www.nature.scot/sites/default/files/2017-07/Publication%202002%20-%20SNH%20Commissioned%20Report%20F00AA508%20-%20%20Siting%20and%20Design%20Guidelines%20for%20Mobile%20Telecommunications%20Developments%20in%20the%20Highlands%20and%20Islands.pdf>

LINK agrees with this proposal. Developers should be encouraged sensitively site masts to reflect local concerns when re-locating them.

Furthermore, there should be a requirement on developers to remove redundant infrastructure to restore the site to its original state.

8. Do you agree that in the case of replacement masts, in designated areas the current 6m distance from the original location should be retained? If you disagree, please explain why

Yes. The Sustainability Appraisal highlights that increasing the limit in designated areas poses a risk to archaeological sites due to soil disturbance, as well as disturbance to water. This risk is likely to be greater in World Heritage Sites and historic battlefield sites which could result in irreplaceable damage to, or loss of, our cultural heritage. The visual amenity of landscapes is also likely to be impacted. Not increasing the 6m distance decreases these risks.

9. We propose to retain the current approach to notify the relevant safeguarding body for masts. Do you agree? If you disagree, please explain why

Yes

10. Do you agree that the PDR for antenna systems on buildings outside designated areas should be as set out in Table 3 in the consultation paper? If you disagree, please explain why

We agree with this but recommends that developers are firstly encouraged to affix antennas, small cell systems and other apparatus onto existing street furniture such as lampposts and utility poles to minimise impacts on building fabric and visual amenity.

11. Do you agree with extending PDR for antenna systems on buildings to all or some of the designated areas to which restrictions on PDR for such infrastructure currently applies? Please indicate which designations should have extended PDR and why, or, if you disagree, please explain why

No. extending PDR for antenna systems into designated areas is likely to have negative effects on our built and cultural heritage, particularly in urban conservation areas with high concentrations of built heritage (e.g. Conservation Areas and some World Heritage Sites).

Extending PDR in this area is likely to result in an increase of visual clutter, damaging the historical and cultural character of an area. It is also likely to result in permanent damage to the fabric of historic buildings from mounting equipment on to buildings.

The Sustainability Appraisal states the effects are “reversible”. However, as reliance on digital communication and technology grows, it seems very unlikely that once installed, antenna systems will ever be removed. Even if they were, they would leave behind permanent damage to the fabric of buildings and monuments. We are also concerned that extended PDR may set a precedent for further extension in future, irreparably damaging the character of traditional buildings and the visual amenity of historic sites.

12. What controls should apply in designated areas for antenna systems on buildings and should there be any differentiation between area type (e.g. size and number limits, prior notification/ prior approval or greater restrictions in designations such as conservation areas and world heritage sites, to avoid any detrimental impact on the built environment in terms of any potential visual clutter etc)?

If PDR were to be introduced in designated areas, it should be subject to the prior notification/ prior approval process which should have regard to the siting and design of antenna and potential impacts on heritage assets. We would advise greater restrictions are imposed in urban Conservation Areas and World Heritage Sites, as adverse effects are more likely to be felt there.

13. Do you agree that we should extend PDR to small cell systems on dwellinghouses (rather than just for small antennas)? If you disagree, please explain why

No. The Sustainability Appraisal has identified a likelihood of “significant negative potential effects on cultural heritage” if this PDR were extended into designated areas.

14. What limitations and restrictions should apply to small cell systems on dwellinghouses (e.g. smaller units, fewer in number than small antennas under PDR)?

We believe this should be fully restricted in designated areas and subject to the full scrutiny of the planning process.

15. In conservation areas, what limits or requirements should apply to small cell systems on dwellinghouses and other buildings (e.g. prior notification/ prior approval to assess the visual impacts or smaller/lower limits, different provisions for dwellinghouses compared to other buildings)?

If this PDR were to be introduced in designated areas it should be subject to the prior notification/ prior approval process. There should also be limits/measures introduced to:

- Ensure they are sensitively designed and located (e.g. painting equipment the same colour as a building or hiding it behind the fabric of a building)
- Limit the size and number of small cell systems.
- Use existing sites (including utilising existing street furniture).

We would welcome clarification about what is considered the ‘highest’ part of the roof (referred to in Table 4: Current limits on PDR for small antennas on dwellinghouses and other buildings in conservation areas). Does this mean the roof itself or structures such as chimneys or existing digital communications infrastructure? We believe it should mean the roof itself.

16. Do you agree that extending PDR for small cell systems as proposed and the proposed changes to PDR for new ground-based cabinets in designated areas would meet the requirements of Article 57 of EU Directive 2018/1972?

LINK believes Scottish Government are already meeting the requirements of Article 57.

The Article reads that “competent authorities shall not subject the deployment of small-area wireless access points complying with the characteristics laid down pursuant to paragraph 2 to any individual

town planning permit or other individual prior permits.” However, it also reads “by way of derogation from the second subparagraph of this paragraph, competent authorities may require permits **for the deployment of small-area wireless access points on buildings or sites of architectural, historical or natural value** protected in accordance with national law or where necessary for public safety reasons.”

The derogation allows extra protection for sensitive areas. Given this, we believe that under the Article, the Scottish Government can continue to apply the full planning process to small cell systems and new ground-based cabinets in designated areas whilst not “unduly restrict[ing] the deployment of small-area wireless access points”.

17. Are there any other potential amendments, comments or observations you wish to make in relation to potential changes to PDR, that you consider necessary, to be compliant with the requirements of Article 57 of EU Directive 2018/1972?

Scotland is already compliant.

18. Do you agree that we should extend existing PDR in designated areas to allow for new equipment housing up to 2.5 cubic metres volume?

No. Any increase would have an impact on the visual amenity and cultural heritage of designated areas.

Furthermore, the qualities of historic buildings or of monuments are not only affected by apparatus affixed to them- they could also be affected by insensitive development around them. For example, a ground-based cabinet on a Local Authority owned street but adjacent to a significant listed building could degrade the overall quality of the building.

19. Should this be subject to prior notification/prior approval on the siting and appearance to mitigate visual impacts? If you disagree, please explain why

If this PDR were to be extended, we agree it should be subject to the prior notification/ prior approval system to limit the visual intrusion of cabinets in designated areas through sensitively designing and locating them.

20. If this were to be introduced do you agree that we should differentiate between types of designated areas by, for example, having smaller size limits in conservation areas than in National Parks? If you disagree, please explain why and give your views on what limits should apply in which areas

No. We are unclear what benefits this would bring. The impact on built heritage in conservation areas and the impact on the landscape and biodiversity in National Parks are both classified as “potentially significant”, which does not suggest allowing units to be built under PDR in any type of designated area would be appropriate.

21. Do you agree that we should extend PDR for new equipment housing on buildings in designated areas, with a limit on size of up to 2.5 cubic metres volume?

We disagree with this proposal for the reasons set out in Q18. Additionally, extending this PDR would put the fabric of our built heritage at risk as installing new equipment housing on historic buildings could permanently damage them.

22. Should this be subject to prior notification/ prior approval requirements on the siting and appearance to mitigate visual impacts?

If PDR in this area were to be extended, it should be subject to the prior notification/ prior approval process. The prior notification/ prior approval process should seek to limit the visual intrusion of cabinets in designate areas through sensitively designing and locating them. It should also look to protect the fabric and cultural significance of historic buildings.

23. Do you agree that PDR for other apparatus should be extended in designated areas, beyond the basic 'like for like' alteration or replacement that currently applies?

No. Instead, the current oversight offered by the planning system should be retained. If this PDR were extended into designated areas, apparatus would be allowed to protrude above the highest part of the building by 8 metres (if the building is more than 15 metres in height) or 6 metres (if the building is less than 15 metres in height) without appropriate scrutiny from the planning system. Allowing this type of unscrutinised development to occur could permanently change the valued townscapes and cityscapes in designated area.

24. Should any new PDR for other apparatus in designated areas have specific limits and restrictions regarding size and visual intrusion? Please explain your answer, and, if you agree, please indicate what sorts of limits and restrictions should apply and why. If you disagree, please explain why.

Yes. We recommend the following limits:

- It does not allow apparatus to extend above current rooflines, as not to damage cityscapes and townscapes.
- A prior notification/ prior approval process is set in place which takes into account the environmental and visual impacts of developments.
- Best practice guidance on how to protect the cultural and built heritage of designated areas is developed.

25. Do you agree that PDR for new development of other apparatus on buildings in designated areas should be subject to prior notification/prior approval to mitigate visual impacts?

Yes. The prior notification/ prior approval process should take into account the siting and design of other apparatus, as well as the impacts on cultural and built heritage.

26. In which designated areas do you consider that PDR for underground development could be extended? Please explain your answer, particularly with regard to those designated areas where PDR for underground development could not be extended

None.

Extending PDR for underground development in any designated area could have serious consequences on conservation. In conservation areas or areas with built heritage, including monuments, it may cause subsidence to the buildings. In scenic areas such as National Scenic Areas and National Parks, digging up land, particularly through wildflower meadows, tress and other undisturbed land could scar the landscape.

Underground development may also impact the soil diversity, water distribution and habitats in designated areas. This could reduce soil diversity and impact soil structure, increase flooding risk, pollute groundwater and destroy habitats that would in turn harm species.

Additionally, the Sustainability Appraisal identifies extending PDR in this area will increase the risk of “permanent physical damage” to archaeological sites which will damage our ability to understand and learn about our cultural heritage. This is particularly relevant to historic battlefields.

The potential impact of underground development clearly demonstrates it should be subject to the full rigours of the planning system. Therefore, we do not believe PDR should be extended in to designated areas.

27. In those areas where PDR for underground development could be extended, what limitations, restrictions or requirements should apply (e.g. prior notification/ prior approval, a requirement for an archaeological assessment or specific limitations)? Please explain your answer

The prior notification/ prior approval process should reflect the potentially significant impact of this PDR on archaeology, visual amenity, biodiversity, habitats, flooding and soil.

28. Do you have any further comments to make which are specifically related to the potential changes to PDR for Digital Communications Infrastructure which have not been addressed in the questions above?

We recommend Scottish Government explore establishing quality standards for all digital communications infrastructure. Quality standards would provide a safety net for development under PDR in all designated and non-designated sites. They could be used to ensure a minimum standard of design and siting for all digital communications infrastructure, thereby preventing worst-case scenarios of bad permitted development ever occurring.

Scottish Government should update the list of designated areas in 4.6 to include all gardens covered by Historic Environment Scotland’s ‘Inventory of Gardens and Designed Landscapes’, not just ‘historic’ gardens.

Lastly, as discussed in Q1, we believe undesignated sites are also valuable assets and should not be considered to be lesser than designated sites in allowing PDR and development. In particular, Wild Land is highly valuable but is un-designated. Wild Land is identified as land that has “minimal signs of human influence” and is “undeveloped”. The unscrutinised development buildings under PDR would be particularly harmful to Wild Land and contradict NPF3, which recognises wild land as a nationally important asset that merits strong protection.

Agricultural Developments

29. Do you agree with our proposal to increase the maximum ground area of agricultural buildings that may be constructed under class 18 PDRs from 465sqm to 1,000sqm?

No. LINK members have a number of concerns about the proposed increase as it will more than double the size of building that can be built without any oversight from the planning system. The scale of these buildings means they are likely to have a significant impact on local landscapes. This is of particular concern in designated areas (including all listed in 4.6 and Wild Land).

Scotland's designated areas provide some of our most valued and sensitive landscapes. They are part of our cultural heritage and national identity. They are of huge economic value- the visual amenity of landscapes and the wildlife these places host attract tourists, as well as business to Scotland, which supports many rural jobs.⁶ Additionally, our designated areas encourage community cohesion and support people's mental and physical health.⁷

Class 18 PDR for agricultural buildings is not restricted in designated areas other than in historic battlefields. LINK members are concerned that extending this PDR to a limit of 1000sqm will degrade our designated landscapes. 1000sqm buildings are more likely to draw the eye given their size and stick out more in natural landscape. The design of them may be incongruous to the landscape, further drawing attention to the structures and detracting from a sense of 'being in nature'. This could have negative impacts on people's physical and mental wellbeing, our sense of identity, our cultural heritage and economy.

Buildings of 1000sqm and the associated construction of these could also have damaging effects on biodiversity in the area, both in terms of destroying habitats and creating barriers to movement. They may also increase flood risk and disturb archaeological remains.

These risks do not only apply to designated areas- undesignated landscapes provide many of these benefits too and are equally at risk of damaging development under this proposal. Although non-designated land is not recognised in the same way as designated land, much of it is hugely important to Scotland's cultural heritage, which is vulnerable to damage. For example, Scotland's landscapes, which play an important socio-economic role through attracting tourists and contributing to national identity, are often in undesignated areas (e.g. landscapes in the North East and Western Isles).

The Land Use Strategy sets out how Scotland's land should be managed to provide maximum public benefit. It says that change should be managed positively and sympathetically, and the impact of changes on landscapes should be considered to protect our national identity and individual and social wellbeing. The proposal impairs Scotland's ability to achieve the aims in the Land Use Strategy by reducing the capacity to manage change.

Therefore, LINK members believe that buildings of this size should have to go through the full planning process and do not agree that this PDR should be extended to designated areas. We agree it could be

⁶<https://www.nature.scot/professional-advice/landscape/landscape-policy-and-guidance/landscape-health-and-economy>

⁷ Position Statement On Landscape And Health And Wellbeing' Scottish Landscape Alliance' 2020.

<https://scotlandlandscapealliance.org/position-statement-on-landscape-and-health-and-wellbeing/>

extended to undesignated areas, but if this were the case, development should be subject to the prior notification/ prior approval system to increase scrutiny.

LINK members welcome the prior notification/prior approval process suggested, but it is an insufficient level of scrutiny for what development occurs in our most sensitive landscapes.

The prior approval process outlined in the document regarding PDR states that “rights are subject to certain conditions and limitations – including a requirement to seek prior notification/prior approval in respect of siting, design and external appearance”. LINK members believe these conditions and limitations should also include environmental factors, namely: soil subsidence and health; biodiversity; flooding risk; and archaeological disturbance.

We are also concerned that for both designated and undesignated areas, extending this PDR could have the unintended consequences of buildings being erected purely for conversion to residential use. We acknowledge the mitigation measures set out against this, but do not agree that these are sufficient or that they help Scottish government achieve its affordable rural housing ambitions.

30. Do you agree with our proposal to retain other existing class 18 conditions and limitations?

In England, for Class A PDR for Agriculture and Forestry requires a land size of at least 5ha for new buildings to be built. We would welcome further information on why the minimum land size suggested by Scottish Government differs from the minimum land size in England and consideration of if this will result in any unanticipated negative outcomes.

LINK members are concerned that the proposed size limit of buildings is disproportionate to the proposed minimum size of land. Under the proposals, one quarter of a 0.4ha piece of land could be taken up by a new building. This could appear visually disproportionate, as a piece of land 0.4ha is unlikely to traditionally require an agricultural building that size.

31. Do you think that the new 1,000sqm size limit should apply in designated areas (e.g. National Parks and National Scenic Areas)?

LINK members do not think this should be applied in any designated area. The impacts outlined in our answer to Q.29 are a risk in all locations but undoubtedly will be even more severe if this PDR is introduced in designated areas, including National Parks and National Scenic Areas (NSAs).

These areas are designated because of the outstanding value they make to our natural, cultural and built environment, and to ensure people can enjoy and participate in these and exist to protect these landscapes from inappropriate development. This is achieved through the planning system, which can consider the special qualities of designated areas and make informed and considered decisions about if development will negatively impact these.

Removing the scrutiny of the planning system and allowing buildings up to 1000sqm to be constructed under PDR would fundamentally undermine the designation of National Parks and NSAs. This could

result in degradation to the landscape and environment, harming the reasons these areas were originally designated. Such degradation must be avoided at a time of nature and climate emergency.

LINK members agree with the National Trust for Scotland's concerns that introducing this PDR would undermine the National Parks (Scotland) Act 2000 by preventing National Park Authorities from fully scrutinising development and preventing development incongruous to the Park's conservation aims. We agree with the suggestion that this could lead to negative impacts on tourism, as designated areas are visited in large part due to their natural beauty and landscapes and the attractiveness of outdoor heritage for people in Scotland to visit and enjoy.

To avoid damaging our landscapes and ensure National Parks and NSAs continue to deliver the range of biodiversity, environmental, economic and social benefits for current and future generations, development must be carefully managed - not allowed to occur in an ad hoc way under PDR.

32. Do you agree with our proposal to increase the scale of extensions or alterations to agricultural (and forestry) buildings that may be carried out without requiring prior approval?

LINK members are more tolerant of this proposal than the proposal discussed in Q29. However, the concerns outlined in Q29 are applicable here also, as the proposed changes will still increase the footprint of buildings considerably, therefore we do not believe this PDR should be applied in any designated areas.

33. Do you agree with our proposal to discourage developers from erecting new buildings for the sole purpose of converting them by limiting class 18 and 22 PDR where a residential conversion has taken place under PDR on the same farm within the preceding 10 years?

LINK members agree that it is necessary to discourage developers from erecting new buildings for the sole purpose of converting them.

However, the proposals are contrary to this aim as a 10-year horizon, with guaranteed conversion to housing, will seem a worthwhile investment for many owners. It therefore seems inevitable that the introduction of such a PDR will incentivise the creation of new sheds with a view to conversion to housing.

Development should be plan-led and follow Local Development Plans (LDPs) instead of being ad-hoc. A plan-led system will ensure our sensitive areas remain protected and that development occurs where there is a need and where it is appropriate. Introducing this PDR would undermine the concept of a plan-led system and allowing development to occur without the direction and oversight of LDPs and the planning system could have major landscape impacts in the design and siting of residential units, as well as impacts on rural populations and economies.

The most effective way to avoid these potential negative impacts would be to not introduce PDR which allows developers to convert agricultural buildings to residential. We would particularly encourage Scottish Government not to introduce this PDR in designated areas.

34. Do you agree with the proposed new PDR for conversion of agricultural buildings to residential use, including reasonable building operations necessary to convert the building?

LINK members do not agree with this. We have multiple concerns about the claim that this PDR will support affordable rural housing, the siting and design of housing in designated areas, the lack of voice people already feel they have in the planning system and the environmental impacts of housing built under PDR.

The proposals claim to support construction of affordable, rural housing however they contain no provision for doing so. As there is no provision in the proposals, or market incentive for developers to include affordable housing when converting agricultural buildings, the proposals are very unlikely to lead to the construction of more affordable housing.

The introduction of PDR to convert agricultural buildings into residential buildings will further reduce opportunity for people to influence development, exacerbating this feeling of not having a voice over development that impacts them. Introducing this PDR will also exacerbate the perception that local landscape and natural heritage is not being protected by the planning system as development under this PDR will often be in open landscapes. This could erode trust in Scotland's planning system.

In addition to these concerns, residential development can cause of habitat destruction and biodiversity loss. Development can create barriers to wildlife; increase the risk of flooding; spread pollutants and change soil make up. All these impacts are exacerbated by residents' activities such as landscaping, introduction of both non-native (sometimes invasive) species and domestic predators.⁸ These impacts will be particularly negative in designated areas.

35. Do you agree that the proposed new PDR should be subject to a prior notification/prior approval process in respect of specified matters?

We do not consider PDR should be introduced however, if it is then the prior notification/prior approval process should also consider the archaeological impact of development.

36. Do you agree with the proposed range of matters that would be the subject of a prior notification/prior approval process?

There is a need to ensure that all new housing plays its part to help achieve Scotland's climate change and biodiversity goals through incorporating things like SUDs, greenspace, and efficient insulation. Housing should also take account of local environmental concerns such as flooding and mitigate these. Good quality greenspace in developments is important for community cohesion and physical and mental wellbeing and should be prioritised. Active travel links should also be incorporated, as poor transport links and active travel opportunities can force residents to use cars more frequently.

⁸ <https://overpopulation-project.com/housing-growth-threatens-biodiversity-are-we-ignoring-fundamental-causes/>

In particular, the proposed range of matters considered in the prior notification/ prior approval process should be extended to include:

- Sustainable development.
- Environmental protection and enhancement (including protections for habitats and contributing to biodiversity).
- With reference to our answer to Q 34, the siting of housing in landscapes.
- Active travel links.
- The inclusion of greenspace.

37. Do you agree with the proposed maximum number (5) and size (150sqm) of units that may be developed under this PDR?

The size limit on units may encourage conversion into residential dwellings to be rented out as holiday accommodation. This would not support meeting rural housing ambitions. We believe there is a need to introduce measures to protect against this.

38. Do you agree with the proposed protection for listed buildings and scheduled monuments?

We agree with this proposal. However, we believe it needs to be strengthened to ensure developers do not simply redraw the parameters of a site to exclude listed buildings and scheduled monuments. Moreover, this proposal will prevent conversion taking place right next to listed buildings and scheduled monuments, but development of buildings up to 1000sqm nearby will still impact the visual amenity of the siting of the listed buildings and scheduled monuments.

39. Do you agree with the proposed measures to discourage developers from erecting new buildings for the sole purpose of converting them?

We agree there is a need to do this. The most effective way to do this would be to require developers to apply for planning permission to convert agricultural buildings into residential. However, if this PDR were to be introduced, we believe that it should stipulate that if a building was built before November 5th 2019, it should still have had to be used as an agricultural building for ten years prior to conversion.

40. Do you agree with the proposed new PDR for conversion of agricultural buildings to flexible commercial use, including reasonable building operations necessary to convert the building?

We do not agree. LINK members share the concerns raised by the National Trust for Scotland.

Conversion of agricultural buildings to commercial use may create barriers to wildlife; increase the risk of flooding; spread pollutants and change soil make up. It may also degrade landscapes in which they are situated through poor design.

42. Do you agree that the proposed new PDR should be subject to a prior notification/prior approval process in respect of specified matters where the cumulative floorspace changing use exceeds 150sqm?

LINK members believe that the prior notification/ prior approval system is inadequate to provide appropriate protection to our designated areas, so suggest PDR is not extended to these areas (including Wild Land).

43. Do you agree with the proposed range of matters that would be the subject of prior notification/prior approval?

All new development should contribute to Scotland’s climate change and biodiversity goals, as well as adapt to and mitigate the effects of climate change. This includes mitigating flood risk, creating opportunities to provide, protect and enhance natural habitats to support biodiversity and investing in creating low-carbon and low-energy buildings.

Commercial buildings could have a large impact on the landscapes in which they are situated. When agricultural buildings are being converted to commercial use they may change in design to be more appropriate to their new use, and this should be subject to assessment as it may have a bearing on how obvious or incongruous the commercial building is in respect to the surrounding landscape.

LINK members recommend the proposed range of matters also include:

- sustainable development;
- environmental protection and enhancement (including protections for habitats and contributing to biodiversity); and
- the design of commercial units, in respect to their surrounding landscapes.

The inclusion of these factors is particularly important in designated areas.

44. Do you agree with the proposed protection for listed buildings and scheduled monuments?

Yes however we recommend provision to stop the parameters of a site simply being redrawn slightly to exclude listed buildings and scheduled monuments.

45. Do you agree with the proposed measures to discourage developers from erecting new buildings for the sole purpose of converting them?

We agree there is a need to do this. The most effective way to do this would be to require developers to apply for planning permission to convert agricultural buildings into commercial units. However, if this PDR were to be introduced, we believe that it should stipulate that if a building was built before November 5th 2019, it should still have had to be used as an agricultural building for ten years prior to conversion.

46. Do you agree that we should take forward separate PDRs for the conversion of forestry buildings to residential and commercial uses?

We do not agree separate PDRs should be taken forward for the same concerns expressed in our previous answers around the protection of landscapes and visual amenity; sustainable development; environmental impacts; and biodiversity impacts. Development, particularly in designated areas, should be appropriately scrutinised by the planning system.

47. Do you agree that the same conditions and limitations proposed in respect of the PDR for the conversion of agricultural buildings should apply to any separate PDR for the conversion of forestry buildings, insofar as relevant?

We do not agree with this for the same concerns expressed in our previous answers around the protection of landscapes and visual amenity; sustainable development; environmental impacts; and biodiversity impacts. We believe development should be plan led, and not ad hoc. We also believe that development, particularly in designated areas, should be appropriately scrutinised to ensure that it does not negatively impact the land in which it is situated.

48. Do you agree with our proposed approach to providing greater clarity as to the planning status of polytunnels?

If PDR was to be introduced in this area, we believe it should be subject to the same conditions outlined in our above answers. The development of polytunnels can include substantial ground work, therefore any PDR should introduce conditions to protect against damage to archaeological sites.

Peatland Restoration

49. Do you agree with the general approach to PDR for peatland restoration, (i.e. wide ranging PDR given the likely oversight via Peatland Action and via the Peatland Code)?

Yes, we agree with the general approach to PDR where the primary intention of the development is restoring damaged peatland to allow its proper functioning, including increased carbon sequestration. We are facing a climate and nature emergency and the clarification as to what development can be undertaken to achieve peat restoration is welcome and will hopefully Scotland to meet its climate commitments sooner and protect our valuable habitats.

50. Do you agree with the approach to PDR for peatland restoration that relies on a general understanding of what will constitute peatland?

Yes. We do not think a narrow definition should be relied on, such as that of 'deep peat' in forestry guidance. We should favour of a broad ecological definition of peatland and do not see a need for that to be specifically defined within the General Permitted Development Order (GPDO).

51. Do you agree with this approach to a blanket PDR for ‘peatland restoration’?

It may be helpful to have a broad definition of peatland restoration within the GPDO, such as “works carried out with the primary intention of restoring damaged peatland to allow increased carbon sequestration through restoring active peat formation”.

We consider the operations that could be included under the new PD class are “The carrying out of works, including engineering operations, requisite for peat restoration”. This may include, but is not limited to, engineering operations such as ditch blocking, earth moving, dam or bund building, works to stabilise bare peat and land re-profiling.

52. Do you agree that as peatland restoration projects will likely be subject to oversight from Peatland Action, or validation under the Peatland Code, there is no need for additional controls on related PDR in designated areas?

No comment.

53. Do you think there should be PDR for new temporary access tracks (private ways) which may be necessary to carry out peatland restoration projects?

In practice temporary selected ‘routes’ (rather than tracks) over peatland for restoration are normal. Matting and floating track can be used instead of properly excavated track and removed at the end of the project. It is our understanding that temporary works would fall under the existing Class 14 of the GPDO, in which case new PDR would be unnecessary.

If properly constructed tracks are laid, planning permission (or prior notification) would be needed to regulate where they go, their design and materials used.

54. What sort of time limits and restoration requirements do you consider should apply to any PDR for temporary access tracks (private ways) for peatland restoration projects? Please explain your answer.

Class 14 of the GPDO currently permits “The provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land”. Development is permitted by this class subject to the conditions that, “when the operations have been carried out- (a) any building, structure, works, plant or machinery permitted by this Class shall be removed; and (b) any adjoining land on which development permitted by this Class has been carried out shall as soon as reasonably practicable, be reinstated to its condition before that development was carried out”.

It is our understanding that Class 14 would apply to the development requisite for peat restoration, however, we welcome confirmation of this. If so, routes or tracks must be reinstated as soon as

possible after operations have been carried out. If properly constructed tracks are laid, planning permission (or prior notification) would be needed to regulate where they go, their design and materials used.

55. If possible, should any PDR for temporary access tracks (private ways) for peatland restoration only apply to projects which have been approved for funds provided by the Scottish Government, through Peatland Action or other bodies?

As noted above, our understanding is that Class 14 would apply to development works required in relation to peatland restoration, which we consider are sufficient. If the intention was not to apply Class 14, then an exception would need to be added to this class, as has been done for mining operations. If properly constructed tracks are laid, planning permission (or prior notification) would be needed to regulate where they go, their design and materials used.

56. Do you agree that the peatland restoration PDR should allow for the transfer of peat within the restoration site and for peat to be brought into the restoration site?

Yes, within the restoration site but not outwith site.

57. Do you agree that the peatland restoration PDR should not grant permission for the extraction of peat outside the restoration site or for removal of peat from the restoration site?

Yes, this needs regulation and peatland restoration PDR should not allow peat extraction on other sites.

58. Are there any other forms of development which could be granted planning permission by the PDR for peatland restoration as proposed, which should be restricted or controlled?

No comment.

59. Do you have any other views or points to make about the proposed PDR for peatland restoration?

We welcome the attempt to clarify permitted development for peatland restoration. PDR should help to allow quicker and more cost-effective peatland restoration. Without it the delivery of restoration and climate change action will be slowed or compromised.

Given the potential impact of development on the historical and cultural heritage of peatlands, all bodies and boards involved in peatland restoration should contain historical representation (for example, Historic Environment Scotland).

Active Travel

60. Do you agree with the proposal to allow the erection of a cycle store in the front or side garden of a house up to a maximum size of 1.2 m height, 2 m width and 1.5 m depth?

Yes

61. Do you agree with the proposal to permit cycle stores up to 1.2 metres in height, 2 metres in width and 1 metre in depth in the front or side garden of a house in a conservation area?

Yes. However, while we agree with the principle of this proposal we are concerned that the design and siting of such structures could negatively impact the visual amenity of the conservation area. We believe this PDR should be subject to a prior notification/approval process that considers the design and siting of stores.

62. Should such an extension to PDR be subject to a restriction on materials?

Yes, we accept that cycle stores in residential conservation areas could be subject to some restriction on materials. As suggested above, if PDRs in conservation areas for cycle stores are subject to a prior notification/prior approval process that could consider the design and siting of stores and require them to blend into the surrounding area due to their design and what materials they use.

63. Do you agree with the proposal to increase the floorspace of storage sheds allowed in the rear garden of houses in conservation areas to eight square metres?

Yes. As this proposal refers to development in conservation areas it should be subject to a prior notification/ prior approval process that considers the design (including materials) and siting of stores

64. Do you agree with the introduction of PDR for the erection of a cycle store in the private garden area of a flat, including in a conservation area?

We support this proposal in non-conservation areas, however, as noted in Q61 above we believe that developments in conservation areas should be subject to prior notification/prior approval.

65. Do you agree with the proposal to allow cycle stores sufficient to accommodate up to two bikes per flat to the rear of larger blocks of flats, including in conservation areas?

We support in principle the introduction of this PDR as it will encourage active travel take up and because currently development does happen on back greens without the requisite planning permission. However, we are concerned that introducing this PDR may mean residents lose access to accessible and private greenspace. There may also be impacts on the visual amenity of tenements for residents. Therefore, LINK supports the introduction of this PDR but would encourage Scottish Government to further consider if it should be amended so that a) storage can only be built which takes up a certain proportion of residents' green space (e.g. 25% of shared outdoor space), or b) if

development under this PDR should be subject to the prior notification/ prior approval system with specific consideration of the amount of greenspace taken up by the development.

Additionally, we would welcome more information on how the figure of two bikes per flat was calculated as well as any regional or area variations in this figure.

66. Do you agree with the introduction of PDR to allow the erection of cycle stores for buildings of class 4, 5 and 6 uses?

Yes

67. Do you agree with the introduction of PDR to allow the erection of cycle stores on-streets?

Yes

68. If such PDR is introduced, do you agree with the proposed maximum size for the stores, and the proposed restriction on the number allowed in a particular street or block?

Yes

69. If such PDR is introduced, do you think it should be allowed in conservation areas and, if so, should it be subject to any other limitations on size, materials etc?

As noted in Q61 above, LINK believes that the PDR in conservation areas should be subject to prior notification / prior approval.

70. Is there any other amendment to the General Permitted Development Order that you think we should consider in order to encourage active travel further?

LINK supports any simplification and speeding up of processes with regards to active travel infrastructure, including the relaxation of PDRs to facilitate cycle storage in this consultation. It is important to introduce any measures that will play a role in enabling more people to choose cycling as a mode of transport for more journeys.

To achieve this aim, Scottish Government must also invest in the corresponding infrastructure (e.g. cycle networks, cycle-safe roads, safe and pedestrian friendly networks and 20 minute city initiatives). Without this infrastructure to support people to continue to walk and cycle, a societal wide shift to active travel is unlikely to happen.

Areas for future consideration for PDRs include the establishment of simple rural paths, satisfying a number of physical conditions, to be categorised as requiring only a PDR. In addition, currently, councils are able to carry out development works under the Roads (Scotland) Act and the Town and Country Planning (Scotland) GPDO on adopted footpaths and verges without planning permission. An expansion on this would be the most useful tool for taking active travel delivery forward effectively in

the future. This type of development still requires to apply for Construction Consents and the need for public consultation.

This response is supported by the following LINK member organisations:

Association for the Protection of Rural Scotland
Environmental Rights Centre for Scotland
Froglife
National Trust for Scotland
Ramblers Scotland
RSPB Scotland

Scottish Environment LINK is the forum for Scotland's voluntary environment community, with over 35 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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