

Email to:
Planning.PDR3@gov.scot

18 August 2023

Dear Development Management Team (PDR Review),

Response: Review of Permitted Development Rights Phase 3 Consultation

Scottish Renewables is the voice of Scotland's renewable energy industry. The sectors we represent deliver investment, jobs and social benefits and reduce the carbon emissions which cause climate change. Our 330-plus members work across all renewable energy technologies, in Scotland, the UK, Europe and around the world. In representing them, we aim to lead and inform the debate on how the growth of renewable energy can help sustainably heat and power Scotland's homes and businesses.

Scottish Renewables welcomes the opportunity to respond to The Scottish Government Review of Permitted Development Rights Phase 3 Consultation and we support the expansion of permitted development rights for renewable energy development.

However, we consider the proposals do not go far enough, especially since National Planning Framework 4 Policy 1 states "*significant weight will be given to the global climate and nature crises*". Requiring developments to go through the planning application process can cause substantial delay and cost, and our views on how permitted development rights could be expanded further are included in our responses to the consultation questions.

Scottish Renewables would be keen to engage further with this agenda and would be happy to discuss our response in more detail.

Yours sincerely,

Morag Watson

Morag Watson | Director of Policy
mwatson@scottishrenewables.com

Question 1: Do you agree with the proposed PDR for solar panels attached to domestic properties in conservation areas?

Yes. We support the introduction of new PDR to enable solar panels to be attached to dwellinghouses and buildings containing flats located in Conservation Areas.

The proposed new PDR does not appear to apply to the installation of solar equipment on front elevations and front curtilage, and side elevations and side curtilage where domestic properties front onto roads. We consider that greater use should be made of prior notification and/or prior approval procedures in relation to these aspects, to balance the need for controlling unsuitable development against the prohibitive costs and delays of applying for planning permission.

Question 2: Do you agree with the proposed PDR for the installation of solar panels on outbuildings ancillary to, and within the curtilage of, a dwellinghouse?

Yes. We support the introduction of additional PDR for the installation of solar panels on outbuildings ancillary to and within the curtilage of a dwellinghouse. We note, however, that there is no extension of the PDR for the installation of freestanding solar panels so that this right remains limited to dwellinghouses only (i.e., not flats); to the rear curtilage or side curtilage of a dwellinghouse provided that it does not front on to a road and the structure must not exceed 3 metres in height. Neither does the PDR apply where, because of the development, more than 50% of the rear or front curtilage would be developed. Again, we would suggest that the PDR should be extended further or greater use made of prior notification or prior approval procedures in relation to these aspects.

We note, too, the inconsistent treatment of Listed Buildings: existing PDR permit the installation of solar panels on Listed Buildings under the general PDR which allows a variety of works to the exterior of houses, subject to complying with the "*one metre bubble*" requirement (and, separately, obtaining Listed Building Consent). Otherwise, these PDR do not apply to Listed Buildings. We consider that there is scope to extend these PDR to Listed Buildings on the same or similar basis as Conservation Areas and allow potential cultural heritage impacts to be considered and safeguarded through the requirement to obtain separate Listed Building Consent.

Question 3: Do you agree with the proposed amendments to PDR for ASHPs?

Yes. The amendment of this PDR to allow multiple ASHPs for flats (i.e., on a per dwelling rather than per building basis) is to be welcomed, as is the removal of the restriction on siting ASHPs at ground floor level for Conservation Areas.

While the greater flexibility, for flat owners in particular, is likely to be welcomed, it is not clear that the proposed restrictions contain regulations to ensure that ASHPs are installed efficiently on or within the curtilage of buildings containing flats (i.e. that a particular flat owner does not install their ASHP in an awkward location so that it prevents other flat owners in the same building from being able to install ASHPs).

For flats, it is noted that the size of ASHP units is to be restricted to the outdoor compressor unit not exceeding 1.5 cubic metres, etc. We question whether restrictions that relate to the technical specification of ASHPs are appropriate in terms of future-proofing the PDR legislation.

We would also note the inconsistent treatment regarding Listed Buildings: ASHPs cannot be installed on Listed Buildings, even if not on a road frontage, but solar panels can. Perhaps the PDR for ASHPs could be extended to include Listed Buildings, noting again that the requirement to obtain separate Listed Building Consent would remain in place to regulate any heritage impacts.

Question 4: Do you agree that classes 6D and 6E should be amended to include reference to the installation etc. of pipework and associated connections required to operate a ground or water source heat pump?

Yes. We support the proposed amendment to clarify that the PDR also covers the associated underground pipework and any above-ground connections to a pump. This would appear to be a sensible and proportionate amendment to ensure that planning permission is not required for such ancillary works.

Question 5: Do you agree with the proposed amendments to PDR for free-standing domestic wind turbines?

The simplification and streamlining of the relevant prior notification and approval process are welcomed to make the utilisation of this PDR more user-friendly to members of the public.

We question, however, whether a height restriction of 15 metres is appropriate, mainly as it seems to be applied as a blanket restriction across all rural and urban areas in Scotland.

Question 6: Do you agree with the current list of designated areas where the PDR do not apply, noting that the list does not currently include national parks or National Scenic Areas?

We do not consider that PDR should be excluded in national parks and National Scenic Areas, given the relatively small-scale nature of PDR developments. Also, there are many settlements within these areas, and it is unreasonable for people in those settlements to be excluded from exercising PDR.

Question 7: Do you agree with the proposed new PDR for wall or roof-mounted wind turbines attached to a dwellinghouse?

Yes, on account of the greater flexibility it offers in terms of the types of turbines that can be installed on dwellinghouses. We would also suggest that there may be scope to extend the PDR further to the attachment of wall or roof-mounted turbines to outbuildings or structures if it was to follow the same restrictions in terms of turbine size and distances from curtilage.

There appears to be a further inconsistency in the treatment of Listed Buildings: the proposed PDR would allow for the attachment of a turbine to a Listed Building (subject to obtaining Listed Building Consent) but there is no PDR for the installation of a turbine within the curtilage of a Listed Building.

Question 8: Do you have any comments on the potential removal of PDR for flues for wood burning stoves (including wood burners and log burners), biomass boilers and biomass heating systems?

As acknowledged in the Consultation Paper, there are limits as to how far amending PDR can address concerns about the dispersal of pollutants and air quality in isolation so the impact of this proposed amendment is likely to be limited.

Question 9: Noting that current PDR cover the installation, alteration or replacement of flues, should any removal of these PDR be limited to installation of new flues, or also prevent existing flues being altered or replaced under PDR?

See response to Question 8.

Question 10: Do you agree with the proposed amendments to class 6J PDR for solar panels attached to non-domestic buildings?

Yes. In particular, the removal of the current restrictions on energy output is to be supported as the current restrictions do not necessarily reflect the energy requirements of businesses occupying a particular building; it also ensures maximum efficiency for energy generation that might be available on a roof or wall area.

Question 11: Do you have any comments on the potential to amend the current restrictions that apply to solar panels on non-domestic properties (class 6J) and solar canopies in parking areas (class 9M) within 3km of airports and technical sites associated with civilian and military air traffic services?

We have no comments on this issue.

Question 12: Do you agree with the proposed new PDR for solar panels within the curtilage of non-domestic buildings?

Yes, we support the introduction of a new PDR for free-standing solar panels within the curtilage of non-domestic buildings. The proposed restrictions, however, particularly the limit to 1 installation within any particular curtilage and the surface area of panels not exceeding 12 square metres may be too restrictive for buildings with larger curtilage areas.

There appears to be a further inconsistency in the treatment of Listed Buildings: installation of solar panels attached to non-domestic buildings, subject to complying with the other size and location specifications and obtaining Listed Building Consent is permitted but there is no PDR for the installation of solar panels within the curtilage of non-domestic Listed Buildings.

Question 13: Do you agree with the proposal to extend the Class 9M PDR to allow these to apply to solar canopies generally, rather than only those for which the primary use is charging of electric vehicle?

Yes, the removal of such restrictions would likely result in more parking areas having such solar canopies and supporting equipment, regardless of the presence of EV chargers. We would suggest that there may also be scope for the installation of solar canopies in contexts beyond parking areas.

Question 14: Do you agree that any extension of Class 9M PDR to be for the purposes of producing electric power generally, should not have a maximum power generation capacity?

Yes. We agree that any extension of Class 9M PDR to be for the purposes of producing electric power generally, should not have a maximum power generation capacity.

Question 15: Do you agree with the proposed PDR for air source heat pumps on non-domestic buildings?

Yes, the introduction of the new PDR is supported. The associated restrictions in relation to ASHPs for non-domestic buildings are relatively limited; while the additional restrictions in relation to buildings with non-domestic uses and residential parts are likely appropriate to safeguard amenity.

Question 16: Do you agree with our proposed amendments to class 6I PDR for ground and water source heat pumps on non-domestic buildings?

Yes. The proposals offer greater flexibility for domestic ground source and water source heat pumps. Consideration should be given to whether the amended PDR is sufficient to cover future developments in this technology.

Question 17: Do you agree with the proposed PDR for replacement windows of domestic buildings located in conservation areas?

Yes.

Question 18: Do you have any comments on the conditions that we propose the PDR for replacement windows would be subject to?

We have no comments on this issue.

Question 19: Do you agree with the proposal to align non-domestic buildings with domestic buildings, as regards PDR for replacement windows? Are there any types of non-domestic building that should be excluded?

Yes. This would address the present inconsistency that certain types of non-domestic buildings - shops, financial and professional service establishments, schools, colleges, universities, hospital buildings, nursing homes and other buildings used for the provision of care or office buildings – can install replacement windows under the general PDR currently applicable to them. However, any other non-domestic buildings such as hotels, cafes and restaurants do not benefit from the existing general PDR and would require applying for planning permission.

Question 20: Do you agree that class 40 PDR should be amended to clarify that they can be applied by statutory undertakers for the purposes of 'smart meter communications' and the 'distribution' and 'interconnection' of electricity as well as its 'generation', 'transmission' and 'supply'?

Yes, the proposed clarification is supported. More broadly, however, consideration should be given to the expansion of relevant PDR to renewables operators who are not currently classified and/or benefit from equivalent powers as statutory undertakers. For example, the Heat Networks (Scotland) Act 2021 (once in force) will grant powers in respect of compulsory purchase, wayleaves, surveying/inspecting land/repairing apparatus, and carrying out road works to heat network operators, but these do not equate to the powers enjoyed by statutory undertakers, or the PDR afforded to them.

While it is acknowledged that amending the definition of statutory undertakers is outwith the scope of this consultation, it would be worth considering other categories of renewables operators that would benefit from being included within this expansion of the PDR.

Question 21: Do you agree with the proposed amendments to the provisions of class 40 PDR which relate to new or replacement substations?

Yes. We would question, however, whether the increase in the current 29 cubic metre limitation to 45 cubic metres is sufficient both for future operations and anticipated future developments in technologies.

Question 22: Do you agree with the proposal to allow the replacement of communications lines in National Scenic Areas and Sites of Special Scientific Interest under class 40 PDR provided that the design, height or position of the replacement line matches the original?

Yes. This extension of PDR is consistent with the PDR already available to statutory undertakers for the installation or replacement of below-ground electric lines and above-ground electric lines and chambers not requiring section 37 consent.

Question 23: Do you have any thoughts on the potential to provide for the installation or replacement of communications lines of a greater length than 1,000m under class 40? If so, do you have a view on an appropriate alternative threshold?

We have no comments on this issue.

Question 24: Do you agree with the proposal to extend the range of site investigation works that can be carried out under class 40?

Yes. This amendment reflects how the nature of investigation works needed to assess sites for electricity undertakings has evolved beyond the sinking of boreholes.

Question 25: Do you consider that there are any designated areas where PDR for certain site investigation works should be restricted? Should there be any limitations on the scale of certain intrusive site investigation works permitted, for example, the size of trial pits?

We have no comments on this issue.

Question 26: Do you agree with the proposed introduction of specific PDR enabling electricity undertakers to erect, construct, maintain or improve gates, fences, walls or other means of enclosure up to 3m in height?

Yes. Introducing specific PDR within class 40 for the erection or construction of fences, gates, walls and other enclosures linked to electricity undertakings would avoid the height restrictions included at class 7 (the general PDR for the erection of fences and enclosures), reflecting the specific public safety considerations associated with electricity undertakings.

Question 27: Do you agree with the proposed removal of prior notification and approval requirements that apply to certain works under class 40 PDR?

Yes. This should make the consenting process more efficient as demand for electricity from renewable resources continues to increase and energy generation/electricity network facilities require upgrading to enable the generation of additional capacity.

Question 28: Please provide any further views you may have on the proposals in this section on the PDR associated with electricity undertakings.

We have no comments on this issue.

Question 29: Do you agree with the proposed amendments to PDR for reverse vending machines?

We have no comments on this issue.

Question 30: Do you have any comments on the potential exclusion of the use of land as a target shooting range from class 15 PDR? If such a change were taken forward, do you have views on the potential justification for exempting the activities discussed in paragraphs 6.2.4 and 6.2.5?

We have no comments on this issue.

Question 31: What are your views on the findings of the Update to the 2019 Sustainability Appraisal Report at Annex A?

We have no comments on this issue.

Question 32: Do you have any comments on the partial and draft impact assessments undertaken for Phase 3?

We have no comments on this issue.

Question 33: Do you have any suggestions for additional sources of information on the potential impacts of the proposals that could help inform our final assessments?

We have no comments on this issue.