



Final Report  
Non Householder Minor Development  
Consents Review  
**November 2008**



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Consents Review

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November 2008

Department for Communities and Local Government: London

The findings in this report are those of the authors and do not necessarily represent the views of Communities and Local Government

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# Executive Summary

This report encompasses a wide-ranging review of the General Permitted Development Order (GPDO) (excluding householder and telecommunications) which has gleaned evidence from a wide range of stakeholders and sources. It makes recommendations for revising the GPDO in a number of important areas, using an impacts-based approach to identify low impact developments which could be exempted from needing planning permission.

First, it identifies a range of uses that do not at present benefit from 'permitted development' rights. Chief amongst these are shops, offices and "institutions" including churches, health centres, day nurseries, public buildings and leisure facilities. The report suggests 'permitted development' rights to allow occupiers to adapt their buildings by carrying out low-impact changes such as alterations and small extensions. In particular the report sets out how the successive adaptation of retail premises through the installation of new shop fronts and automatic teller machines might be streamlined.

Second, the report responds to representations made by schools, universities and hospitals that their ability to plan ahead is restricted by the current GPDO. The report makes recommendations for clarifying and extending existing rights for these users, and for Local Development Orders (LDOs) to be adopted by local planning authorities (LPAs) to encourage long term planning on key healthcare and education sites.

Third, the report brings the GPDO up to date in areas where it has lagged behind other legislation, notably the sustainable management of waste, and disability access to public buildings. In both areas the report recommends new classes of 'permitted development' rights. It also addresses climate change issues and makes recommendations for withdrawing 'permitted development' rights for basements in flood risk areas and for new hardstanding to be of porous materials.

Fourth, the report examines 'permitted development' rights in rural areas, and concludes that there is a broad consensus amongst stakeholders that existing rights for agriculture and rural tourism strike the right balance between the commercial needs of farmers and tourism providers and the protection of the countryside. Three minor changes are proposed: encouragement is given to farmers seeking to take the first steps towards diversification; the keeping of horses for private leisure purposes is accepted as a legitimate low-impact rural activity; and a simplified process for caravan site operators needing to undertake works to comply with their licence.

Fifth, the report addresses 'permitted development' rights for flats and proposes a modest range of 'permitted development' rights for flat dwellers.

Sixth, the report acts on evidence that in some very specific areas the GPDO does not set tight enough limits on development. The first of these is local authority 'permitted development' rights for the installation of skateboard parks and other high impact outdoor leisure uses, with often adverse consequences for local residents; it is proposed that such leisure activities be specifically excluded from local authority 'permitted development' rights. Second is the installation of 'street furniture' in Conservation Areas by transport and statutory undertakers and local authorities, which presently the GPDO does not address.

The report addresses the use of Prior Approvals/Notifications, reviewing their operation in light of evidence from a wide range of stakeholders. It makes recommendations for the current system to be rebranded as Minor Development Certificates (MDCs) (excluding telecommunications developments) with a non-extendable period of 28 days for determination, and an enhanced fee. Areas where the operation of MDC's might be extended are put forward.

The report's recommendations seek to bring a greater degree of consistency to the thresholds applied to different classes of development, by ironing out the inconsistencies which have arisen as the GPDO has been revised over the years. In setting out its recommendations the report takes a measured approach to allowing businesses and institutions to adapt their premises to their changing needs. Where such adaptations are minor in nature and have low external impacts, it is right that the planning system facilitate them via appropriate 'permitted development' rights. By these means the burden on both users of the planning system and local authorities can be reduced.

The report attempts to deal carefully with those sensitive areas where it is right to exercise caution in the broadening of 'permitted development', most notably in town centre conservation areas and in rural areas of high landscape value.

The report presents estimated savings in planning applications derived from a detailed statistical analysis of applications submitted to planning authorities across England and Wales. The report estimates that over 16,000 minor applications could be saved outright each year, and nearly 18,000 minor applications dealt with under a streamlined Minor Development Certificate process. In total 20.83 per cent of minor applications submitted each year could be removed from the system or dealt with as Minor Development Certificates.

The report concludes by making recommendations for easier interpretation of the GPDO, including a more user friendly layout and system for updating. It is suggested that in light of the fact that Parts 1 and 2 of the GPDO are to be hived off into a separate Householder Permitted Development Order, it may be appropriate to consider separate Orders for "specialist areas" such as utilities and statutory undertakers, and minerals and waste operators, leaving a much-simplified GPDO containing only the most commonly-used parts.

# Summary of Recommendations

The recommendations in this report are of two kinds.

First there are recommendations for reforming the GPDO to modernise it and to make it an easier document to use and to update. These recommendations are brought together and summarised in the paragraphs that follow.

The second set of recommendations relate to the Order itself. These identify the areas that we believe could be revised and amended to meet the objectives of our brief to reduce the number of minor planning applications while protecting the interests of neighbouring occupiers, the wider community and the environment. These recommendations are listed in table 1 at the end of this chapter.

## Reforming the GPDO (chapter 5)

1. An agenda for modernising the GPDO should be drawn up. This should be based on Heriot Watt's recommendations for formatting and presenting the Order in Scotland which we think are worth pursuing in England and Wales. We summarise the key ones:
  - there should be a website for the GPDO, enabling easy access to an updated and consolidated Permitted Development Order, and with hypertext links to relevant parts of guidance and advice.
  - there should be an "easy read" user-friendly summary version of the Order, both to accompany the full definitive version and for wider distribution.
  - government should issue comprehensive advice in regard to the relationship between the various statutes, advice and circulars covering permitted development.
  - the electronic version of the GPDO should be accompanied by decision trees assisting users to establish whether their proposal is permitted development.

Some related initiatives should also be considered as part of this package. These should include:

- adapting the Planning Portal's highly successful on-line interactive householder guide<sup>1</sup> to other forms of development, and reviewing current Communities and Local Government guidance on the planning system for other users such as farmers and businesses.
  - taking on board the Planning Officers Society (POS) proposal that every time there is an amendment to the existing GPDO the whole document should be reissued so that users can be confident what the current regulations are.
2. Redundant parts of the Order should be removed as recommended by the Lichfield Review. These include Parts 26 and 30, and perhaps Part 20. Redundant classes within remaining parts of the order should also be identified and deleted.
  3. Recasting the GPDO from its present format. The GPDO's parts should more closely relate to the major uses as set down in the Use Class Order and to government policies set out for them in relevant PPSs.

Thus, as well as a new Householder Permitted Development Order proposed by the Householder Development Consents Review, which was well supported in public consultation and which the Government has indicated it will examine further, other individual parts of the GPDO could be published as separate Orders to cover the following broad areas:

- Town Centre and Retail Uses (relating to Class A of the Use Classes Order)
- Business and Commercial Uses (relating to Class B of the Use Classes Order)
- Institutions and Places of Assembly (relating to Class C1, C2, D1 and D2 of the Use Classes Order)
- Rural and Agricultural Uses
- Infrastructure Providers
- Mineral Extraction and Waste Management

## Local Development Orders (chapter 5)

4. To demonstrate the potential that we believe LDOs offer for freeing up the planning system, Government should consider funding a number of pilot Local Development Orders where the various stakeholders are in agreement about taking such an approach.

<sup>1</sup> <http://www.planningportal.gov.uk/uploads/hhg/houseguide.html>

## Article 4 Directions (chapter 5)

5. Communities and Local Government should prepare guidance to clarify the potential and the limitations for the new Article 4 arrangements to permit LPAs to restrict permitted development rights in their areas.
6. To address the lack of know-how within LPAs, some pilot Article 4s should be prepared to demonstrate the use of the new provisions.

## Prior Approval/Prior Notification (chapter 6)

7. A 28-day Prior Approval System should be introduced comprising:
  - i) full plans to be submitted at the outset
  - ii) technical justification if required eg noise report
  - iii) licensing details if required eg caravan parks
  - iv) 28 days for determination
  - v) no extension of time or ability to seek further details
  - vi) no external consultations
  - vii) default permission (deemed consent) if no decision in time
  - viii) right of appeal
  - ix) fees uplifted to reflect the true work involved – we propose the fee should be set at the fee for a householder planning application (£150).
  - x) development of clear instructions for applicants and LPAs
  - xi) rebranding under a new name – which we propose should be a ‘Minor Development Certificate’ or ‘MDC’
8. This 28-day model is not appropriate for some telecommunications developments now subject to a 56 day Prior Approval Process under Part 24. Rather it would apply to agriculture and forestry development as at present (and the other minor areas currently included in the GPDO) and be expanded to include other minor developments sharing the following characteristics:
  - the principle of the development is acceptable
  - there is no evidence of widespread public concern about the type of development

- aspect(s) of the scheme require approval from the LPA
  - significant harm would not result if a deemed consent was inadvertently granted after 28 days
9. MDC's should apply to the following developments (though see the individual chapters for further detail):
- agriculture and forestry buildings
  - plant and equipment
  - shopfronts
  - automated teller machines
  - horse shelters
  - disability accesses
  - street furniture
  - facilities at caravan sites
  - waste management operations

## Sustainability and Climate Change (chapter 7)

10. 'Permitted development' rights for highly and more vulnerable uses lying in Flood Risk Zones 2 and 3 be limited to the Environment Agency's definition of a minor development as anything less than 250m<sup>2</sup>.
11. Basements should be excluded from 'permitted development' in Flood Risk Zones 2 and 3 or where ground/surface water flood risk is identified in a Strategic Flood Risk Assessment.
12. All references to hardstanding as 'permitted development' should henceforward be taken as referring to permeable surfaces unless there is a clear need to control against potential groundwater pollution.
13. "Urban development project" be defined in the EIA Regulations.
14. The Environment Agency to be asked to review the quality of flood mapping on its website, and provide links to the Planning Portal and to Strategic Flood Risk Assessments.

Table 1: List of the detailed recommendations for changes to the GPDO			
Existing Permitted Development Rights limits (where relevant to proposed changes)	Extended Permitted Development Rights	Minor Development Certificate replacing full planning application	More restricted Permitted Development Rights
<p><b>Part 1:</b> Development within the curtilage of a dwellinghouse</p> <p>Class C (as amended by the Entec Microgen review): Any other alteration to the roof of a dwellinghouse</p> <p>Class E (as amended by the Householder Development Consents Review): The provision within the curtilage of a dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse</p> <p>Class F (as amended by the Householder Development Consents Review): The provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such</p>	<p>To apply to flats</p> <p>To apply to flats, subject to no outbuilding being located within 5m of any door or window on the host property</p> <p>To apply to flats, subject to a maximum of 25 sq m per block of flats</p>		

Existing Permitted Development Rights limits (where relevant to proposed changes)	Extended Permitted Development Rights	Minor Development Certificate replacing full planning application	More restricted Permitted Development Rights
<p><b>Part 2:</b> Minor operations</p> <p>Class A: The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure</p> <p>New Class D:</p> <p>New Class E:</p>	<p>Add limitation to clarify that fencing in connection with equestrian ‘permitted development’ rights (new Part 40) is not permitted by Part 2</p> <p>Erection of a building for the storage, sorting and transfer of waste:</p> <ul style="list-style-type: none"> <li>• maximum floor area of 20 sqm</li> <li>• maximum height of 2.5m</li> <li>• minimum distance to boundary of 10m</li> <li>• maximum 25 cu m of waste to be stored</li> <li>• not applicable to dwellinghouses or flats</li> </ul> <p>External works in non-sensitive areas by a service provider to achieve compliance with the DDA:</p> <ul style="list-style-type: none"> <li>• car parking, pathways and street furniture: <ul style="list-style-type: none"> <li>– all hardstanding to be porous</li> <li>– parking bays and drop-off points to be signed and lined for disabled use</li> <li>– new/alterd “street furniture” to be DDA-compliant</li> </ul> </li> </ul>		

Existing Permitted Development Rights limits (where relevant to proposed changes)	Extended Permitted Development Rights	Minor Development Certificate replacing full planning application	More restricted Permitted Development Rights
	<ul style="list-style-type: none"> <li>• ramps and steps:                             <ul style="list-style-type: none"> <li>– max one set of ramps/steps per building frontage</li> <li>– max 2m change in levels of ramps/steps</li> <li>– max total length of ramps (excluding landings) of 40m</li> <li>– max 12m projection of ramps/steps from building frontage</li> </ul> </li> <li>• entrance canopies and door/window enlargements:                             <ul style="list-style-type: none"> <li>– max canopy spread of 3m</li> <li>– max canopy height of 3m</li> </ul> </li> <li>• general limitation:                             <ul style="list-style-type: none"> <li>– no works to impinge on the public highway</li> </ul> </li> </ul>		

Existing Permitted Development Rights limits (where relevant to proposed changes)	Extended Permitted Development Rights	Minor Development Certificate replacing full planning application	More restricted Permitted Development Rights
<p><b>Part 3:</b> Changes of use New Class H:</p>	<p>Change of use of an agricultural building on an agricultural unit of 5 hectares or more to:</p> <ul style="list-style-type: none"> <li>• the making of products from produce/materials grown or reared on the farm</li> <li>• the selling of produce/products grown within a 10 mile radius, and other products which account for no more than 20% of the sales area</li> <li>• storage and distribution uses (but no subsequent change to B1)</li> </ul> <p>Subject to the following limitations:</p> <ul style="list-style-type: none"> <li>• the building must have been in agricultural use for at least 5 years</li> <li>• the building shall continue to be part of the agricultural unit</li> <li>• if the building is no longer needed for one of these uses it shall revert to agricultural use</li> <li>• no more than 235 m<sup>2</sup> of total floorspace per farm unit, of which a max of 120m<sup>2</sup> can be given over to a farm shop</li> <li>• not applicable to listed buildings</li> <li>• storage use not applicable in sensitive areas</li> </ul>		

Existing Permitted Development Rights limits (where relevant to proposed changes)	Extended Permitted Development Rights	Minor Development Certificate replacing full planning application	More restricted Permitted Development Rights
<p>New Class I:</p>	<p>Change of use from use class B2 to a waste processing facility, and vice versa, up to a maximum floorspace of 235 sq m</p>		
<p><b>Part 4</b>                      Temporary buildings and uses                      Class A: 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</p>	<p>After “moveable structures, works, plant or machinery” insert “including crushers and other equipment for the recovery of materials”</p>		

Existing Permitted Development Rights limits (where relevant to proposed changes)	Extended Permitted Development Rights	Minor Development Certificate replacing full planning application	More restricted Permitted Development Rights
<p><b>Part 5:</b> Caravan site</p> <p>Class B: Development required by the conditions of a site licence for the time being in force under the 1960 Act</p>	<p>Development required by a site licence comprising:</p> <ul style="list-style-type: none"> <li>• replacement buildings on the same footprint up to max 25% increase in floorspace and height</li> <li>• max 25 sq m extension per existing building up to 25% extra floorspace</li> <li>• height no greater than existing building, if within 10m of a boundary max height of 5m</li> <li>• not within 5m of a boundary or facing a highway</li> <li>• no loss of turning/manoeuvring space for vehicles</li> <li>• materials to match existing buildings</li> <li>• not within the curtilage of a listed building</li> <li>• porous hardstanding up to 50 sq m</li> <li>• no basements in Flood Risk Zones 2 and 3 or areas identified in a SFRA as being at risk of ground/surface water flooding</li> <li>• developments within the curtilage of a listed building, and basements in flood risk areas, would require a full planning application</li> </ul>	<p>Note: Chapter 12 explains how, because of the complex relationship between the GPDO and the licensing of caravan sites under the Caravan Sites etc Act 1960 this recommendation could be construed both to extend permitted development rights and to require an MDC where no application is now required.</p> <p>Minor Development Certificate required for the following works:</p> <ul style="list-style-type: none"> <li>• new buildings up to 50sqm floor area and 5m high</li> <li>• new and replacement plant and machinery</li> <li>• replacement buildings, extensions and hardstandings which exceed the tolerances in Column 2*</li> <li>• any other works required by a site licence</li> </ul> <p>where these are in accordance with the site licence and do not increase the capacity of the caravan site.</p>	

Existing Permitted Development Rights limits (where relevant to proposed changes)	Extended Permitted Development Rights	Minor Development Certificate replacing full planning application	More restricted Permitted Development Rights
<p><b>Part 6:</b> Agricultural buildings and operations New Class D:</p> <p>New Class E:</p>		<p>Structures to house biomass boilers and anaerobic digesters, provided only waste generated on the farm is disposed of</p>	<p>The importation of inert waste materials for agricultural purposes for constructing tracks, hardstandings and engineering schemes to require a Minor Development Certificate</p>

Existing Permitted Development Rights limits (where relevant to proposed changes)	Extended Permitted Development Rights	Minor Development Certificate replacing full planning application	More restricted Permitted Development Rights
<p><b>Part 7:</b> Forestry Buildings and Operations New Class B:</p>			<p>The importation of inert waste materials for agricultural purposes for constructing tracks, hardstandings and engineering schemes to require a Minor Development Certificate</p>

Existing Permitted Development Rights limits (where relevant to proposed changes)	Extended Permitted Development Rights	Minor Development Certificate replacing full planning application	More restricted Permitted Development Rights
<p><b>Part 8:</b> Industrial and warehouse development</p> <p>Definitions: “industrial building” means a building used for the carrying out of an industrial process’</p> <p>Class A: Extension or alteration of an industrial building or a warehouse subject to:</p> <ul style="list-style-type: none"> <li>• Volume not more than 25% of existing (10% on article 1(5) land).</li> <li>• max 1,000 m<sup>2</sup> new floorspace (500m<sup>2</sup> in sensitive areas)</li> <li>• no higher than existing building</li> <li>• no plant &gt;15m high</li> <li>• not to materially affect external appearance</li> </ul>	<p>Amend definition to confirm Part 8 rights are applicable in full for research and development (Class B1(b) of the Use Classes Order</p> <p>New Class A:</p> <ul style="list-style-type: none"> <li>• max 1,000m<sup>2</sup> floorspace (500 m<sup>2</sup> in sensitive areas) for extensions and alterations to buildings up to a max of 25% of additional floorspace</li> <li>• max 100m<sup>2</sup> per new building</li> <li>• no higher than existing building, and max 5m if within 10m of a boundary</li> <li>• no closer than 5m to boundary</li> <li>• no closer to highway than existing building</li> <li>• max 50% ground coverage</li> <li>• materials to match existing</li> <li>• no loss of turning/manoeuvring space for vehicles</li> </ul>	<p>Plant and machinery for research and development</p>	<p>Plant and machinery for light industrial and storage to require a Minor Development certificate</p> <p><i>Note: The italicised text in Column 2 represents more restrictive ‘permitted development’ rights.</i></p>

<p><b>Existing Permitted Development Rights limits (where relevant to proposed changes)</b></p> <p>Class C: The provision of a hard surface within an industrial curtilage</p>		<p><b>Extended Permitted Development Rights</b></p> <ul style="list-style-type: none"> <li>• <i>not within curtilage of listed building</i></li> <li>• <i>no basements in Flood Risk Zones 2 and 3 or ground/surface water flood risk areas identified in SFRA's</i></li> </ul>		<p><b>Minor Development Certificate replacing full planning application</b></p>		<p><b>More restricted Permitted Development Rights</b></p>	<p>Max 100 m<sup>2</sup> porous hardstanding, unless risk of groundwater contamination in which case hardstanding to be impermeable</p>
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Existing Permitted Development Rights limits (where relevant to proposed changes)	Extended Permitted Development Rights	Minor Development Certificate replacing full planning application	More restricted Permitted Development Rights
<p><b>Part 12:</b> Development by local authorities</p> <p>Class A: The erection by a local authority or similar of:</p> <ul style="list-style-type: none"> <li>(a) any small ancillary building, not exceeding 4m high or 200m<sup>3</sup> on land belonging to or maintained by them</li> <li>(b) various structures or works required in connection with the operation of any public service administered by them</li> </ul>			<p>Schools taken out of Part 12 and moved to revised Part 32</p> <p>Other D1/D2 uses taken out of Part 12 and moved to new Part 43</p> <p>New equipped playgrounds, skateboard parks, BMX tracks and other similar open air recreational activities to require planning permission (replacement of individual items of equipment to remain as permitted development)</p> <p>Installation of street furniture in Conservation Areas to require a Minor Development Certificate</p>

Existing Permitted Development Rights limits (where relevant to proposed changes)	Extended Permitted Development Rights	Minor Development Certificate replacing full planning application	More restricted Permitted Development Rights
<p><b>Parts 13-17:</b> Development by local highway authorities, drainage bodies, the Environment Agency, sewerage undertakers and statutory undertakers:</p> <p>Part 13 Class A, Part 14 Class A, Part 15 Class A(f), Part 16 Class A (f), Part 17 Classes A, B, E, F, G, H and J</p>			Installation of street furniture in Conservation Areas to require a Minor Development Certificate
<p><b>Part 32:</b> Schools, colleges, universities and hospitals</p> <p>Class A: The erection on the site of any school of any building required for use as part of, or for a purpose incidental to the main use, subject to:</p> <ul style="list-style-type: none"> <li>• predominant use of site is for education/medical services</li> <li>• max 10% increase above total floorspace of original school</li> <li>• max 250m<sup>3</sup> content for all new buildings</li> <li>• no new building within 20m of a site boundary</li> <li>• no development on playingfields</li> <li>• on Article 1(5) land materials to be of similar appearance</li> </ul>	<p>New Class A:</p> <ul style="list-style-type: none"> <li>• max 100m<sup>2</sup> floorspace (50m<sup>2</sup> for schools) and max height of 5m for new buildings</li> <li>• max 100m<sup>2</sup> floorspace (50m<sup>2</sup> for schools) for extensions and alterations to buildings up to a max of 25% additional floorspace</li> <li>• extensions to be no higher than existing building, and max 5m if within 10m of a boundary</li> <li>• new buildings and extensions to be no closer than 5m to any boundary and no closer to a highway than any existing building</li> <li>• for schools pupil capacity not to be increased</li> <li>• not on playingfields</li> </ul>	Plant and machinery	<p><i>The italicised text in Column 2 represents more restrictive "permitted development rights"</i></p>

Existing Permitted Development Rights limits (where relevant to proposed changes)	Extended Permitted Development Rights	Minor Development Certificate replacing full planning application	More restricted Permitted Development Rights
	<ul style="list-style-type: none"> <li>• <i>not within the curtilage of a listed building</i></li> <li>• <i>max 50% ground coverage</i></li> <li>• materials to match</li> <li>• new porous hardstandings up to 50m<sup>2</sup></li> <li>• no basements in Flood Risk Zones 2 and 3 or ground/</li> <li>• surface water flood risk areas identified in SFRAs</li> </ul>		
<p><b>New Part 41:</b> Equestrianism</p>	<p>Use of land for equestrianism and the carrying out of minor works:</p> <ul style="list-style-type: none"> <li>• Change of use to the keeping of horses for recreational purposes on a single parcel of land minimum 1 ha, subject to: <ul style="list-style-type: none"> <li>– no more than 2 horses kept on any 1ha parcel</li> <li>– the parcel not to be subdivided in any way</li> <li>– all land to be available for the grazing and keeping of horses at all times</li> <li>– no equestrian business to be carried out</li> </ul> </li> </ul>		

Existing Permitted Development Rights limits (where relevant to proposed changes)	Extended Permitted Development Rights	Minor Development Certificate replacing full planning application	More restricted Permitted Development Rights
	<ul style="list-style-type: none"> <li>• The erection, construction, maintenance and improvement of a fence, wall or other means of enclosure, subject to:               <ul style="list-style-type: none"> <li>– no fences, walls or structures of any kind shall be erected if these subdivide the 1ha site area</li> <li>– max height of 1.4m</li> </ul> </li> <li>• The erection of a field shelter on non-sensitive land to be used for the keeping of horses, subject to:               <ul style="list-style-type: none"> <li>– max 1 field shelter per 1ha plot of land</li> <li>– if it is no longer required it is to be removed within 1 calendar month</li> <li>– max height of 3.0m</li> <li>– max floorspace of 36m<sup>2</sup></li> <li>– completely open fronted</li> <li>– a minimum of 5m from a boundary with a public highway or neighbouring residential property</li> <li>– positioned on porous hardstanding up to 50 m<sup>2</sup> max</li> <li>– no internal subdivisions, lighting or electricity</li> </ul> </li> <li>• The use of temporary jumps, subject to:               <ul style="list-style-type: none"> <li>– maximum of 8 on any 1ha plot</li> <li>– the jumps shall be in place for no more than 52 days per calendar year</li> </ul> </li> </ul>	<p>Field shelters in National Parks, the Broads and Areas of Outstanding Natural Beauty</p>	

Existing Permitted Development Rights limits (where relevant to proposed changes)	Extended Permitted Development Rights	Minor Development Certificate replacing full planning application	More restricted Permitted Development Rights
<p><b>New Part 42:</b> Offices</p>	<p>Minor works to B1(a) offices:</p> <ul style="list-style-type: none"> <li>• max 50m<sup>2</sup> floorspace for extensions and alterations to buildings up to a max of 25% additional floorspace</li> <li>• extensions to be no higher than existing building, and max 5m high if within 10m of a boundary</li> <li>• new buildings and extensions to be no closer than 5m to any boundary and no closer to a highway than any existing building</li> <li>• materials to match existing building</li> <li>• not within curtilage of a listed building</li> <li>• no loss of turning/manoeuvring space for vehicles</li> <li>• new porous hardstandings up to 50m<sup>2</sup></li> <li>• no basements in Flood Risk Zones 2 and 3 or ground/surface water flood risk areas identified in SFRAs</li> </ul>	<p>Plant and machinery</p>	

Existing Permitted Development Rights limits (where relevant to proposed changes)	Extended Permitted Development Rights	Minor Development Certificate replacing full planning application	More restricted Permitted Development Rights
<p><b>New Part 43:</b> Shops</p>	<p>Minor works to shops and other town centre uses (use classes A1-A5 including sui generis uses):</p> <ul style="list-style-type: none"> <li>• max 50m<sup>2</sup> floorspace for extensions and alterations to buildings up to a max of 25% additional floorspace</li> <li>• extensions to be single storey and a max height of 5m</li> <li>• extensions to be no closer to a highway or communal parking area than any existing building</li> <li>• extensions to be no closer than 2m to any boundary</li> <li>• trolley bays up to 20 m<sup>2</sup> floorspace and 2.5m high</li> <li>• trolley bays to be no closer than 20m to a boundary with a residential property</li> <li>• materials to match existing building</li> <li>• not within the curtilage of a listed building</li> <li>• no loss of turning/manoeuvring space for vehicles</li> <li>• new porous hardstandings up to 50m<sup>2</sup></li> <li>• No basements in Flood Risk Zones 2 and 3 or ground/surface water flood risk areas identified in SFRAs</li> </ul>	<p>Plant and machinery</p> <p>Replacement/alteration of shopfronts outside conservation areas (in conservation areas planning permission required)</p> <p>Installation of wall mounted ATMs outside conservation areas (in conservation areas planning permission required)</p>	

Existing Permitted Development Rights limits (where relevant to proposed changes)	Extended Permitted Development Rights	Minor Development Certificate replacing full planning application	More restricted Permitted Development Rights
<p><b>New Part 44:</b> Institutions</p>	<p>Minor works to nursing homes, hotels/ hostels, D1 institutions and D2 leisure uses (including sui generis uses):</p> <ul style="list-style-type: none"> <li>• max 50m<sup>2</sup> floorspace and max height of 5m for new buildings</li> <li>• max 50m<sup>2</sup> floorspace for extensions and alterations to buildings up to a max of 25% additional floorspace</li> <li>• extensions to be no higher than existing building, and max 5m if within 10m of a boundary</li> <li>• new buildings and extensions to be no closer than 5m to any boundary and no closer to a highway than any existing building</li> <li>• not within curtilage of a listed building</li> <li>• no loss of turning/manoeuvring space for vehicles</li> <li>• max 50% ground coverage</li> <li>• materials to match</li> <li>• new porous hardstandings up to 50 sq m</li> <li>• no basements in Flood Risk Zones 2 and 3 or ground/surface water flood risk areas identified in SFRAs</li> </ul>	<p>Plant and machinery</p>	

Existing Permitted Development Rights limits (where relevant to proposed changes)	Extended Permitted Development Rights	Minor Development Certificate replacing full planning application	More restricted Permitted Development Rights
<p><b>New Part 45:</b> Waste Processing Facilities and Incinerators</p>	<p>Minor works to waste processing facilities:</p> <ul style="list-style-type: none"> <li>• max 100 sq m floorspace for new buildings</li> <li>• max 100 sq m for extensions and alterations to buildings up to max of 25% additional floorspace</li> <li>• extensions to be no higher than existing building, and max 5m if within 10m of a boundary</li> <li>• new buildings and extensions to be no closer than 5m to any boundary and no closer to a highway than any existing building</li> <li>• not within curtilage of a listed building</li> <li>• no loss of turning/manoeuvring space for vehicles</li> <li>• max 50% ground coverage</li> <li>• materials to match</li> <li>• new porous hardstanding up to 50 sq m (provided not used for waste processing)</li> <li>• no basements in Flood Risk Zones 2 and 3 or ground/surface water flood risk areas identified in SFRAs</li> <li>• new storage bays up to 4m high</li> <li>• installation of boreholes for environmental monitoring</li> </ul>	<p>Plant and machinery</p>	

Existing Permitted Development Rights limits (where relevant to proposed changes)	Extended Permitted Development Rights	Minor Development Certificate replacing full planning application	More restricted Permitted Development Rights
<p><b>New Part 46:</b> Landfill sites</p>	<p>Minor works to landfill sites:</p> <ul style="list-style-type: none"> <li>• installation of boreholes for environmental monitoring</li> <li>• installation of leachate management infrastructure</li> <li>• installation of odour control systems</li> <li>• erection of litter fencing up to 6m above made ground level</li> <li>• provision of sewers, mains, cables, pipes or other</li> <li>• installation of environmental monitoring equipment for gas, surface water and groundwater</li> <li>• storage of topsoil and restoration materials up to 3m high</li> </ul>	<ul style="list-style-type: none"> <li>• relocation of internal haul roads</li> <li>• erection of temporary buildings</li> <li>• installation of weighbridges and wheelwashes</li> <li>• replacement plant and equipment</li> </ul>	

# 1 Introduction

## 1.1 The Study Background

This study examines criteria for extending permitted development rights for all categories of development except those relating to householders, microgeneration and telecommunications equipment all of which are or have recently been subject to review by Communities and Local Government.

In specifying its requirements for the assignment Communities and Local Government outlined the Government's agenda for reducing bureaucracy, particularly as it affects the business community. Our brief referred to the Barker Review of the Planning System<sup>2</sup> which highlighted the need to minimize the occasions when businesses and other developers should have to apply for planning permission. Barker proposed that the principle should be that planning applications should not be required for developments unless they have non-marginal third-party impacts.

In her report Barker noted that each year over 120,000 planning applications are made for non-householder minor developments – typically small scale changes to flats or to retail, commercial, industrial, institutional or to agricultural properties. She advised the Government to remove as many cases as possible from the system in order to rebalance the focus of planning onto cases that matter most. To do this she said, permitted development rights for minor consents should be widened by adopting the 'impact approach' used by the Householder Development Consents Review<sup>3</sup> to identify categories of minor householder developments that do have non-marginal third party impacts. Developments that do have third party impacts should continue to require a planning application.

In the subsequent Planning white paper<sup>4</sup> the Government pursued these recommendations by committing itself to reviewing which types of non-residential development offer the greatest potential for change to permitted development rights and to examining what the appropriate limits for permitted developments should be. This review of the General Permitted Development Order (the GPDO) provides this review.

## 1.2 The Aims of the Review

Our project brief requires us to

*'make detailed recommendations for further extending permitted development rights, using an impact approach, for minor developments'.*

2 [http://www.hm-treasury.gov.uk/media/3/A/barker\\_finalreport051206.pdf](http://www.hm-treasury.gov.uk/media/3/A/barker_finalreport051206.pdf)

3 <http://www.communities.gov.uk/documents/planningandbuilding/pdf/151849>

4 <http://www.communities.gov.uk/documents/planningandbuilding/pdf/planningsustainablefuture>

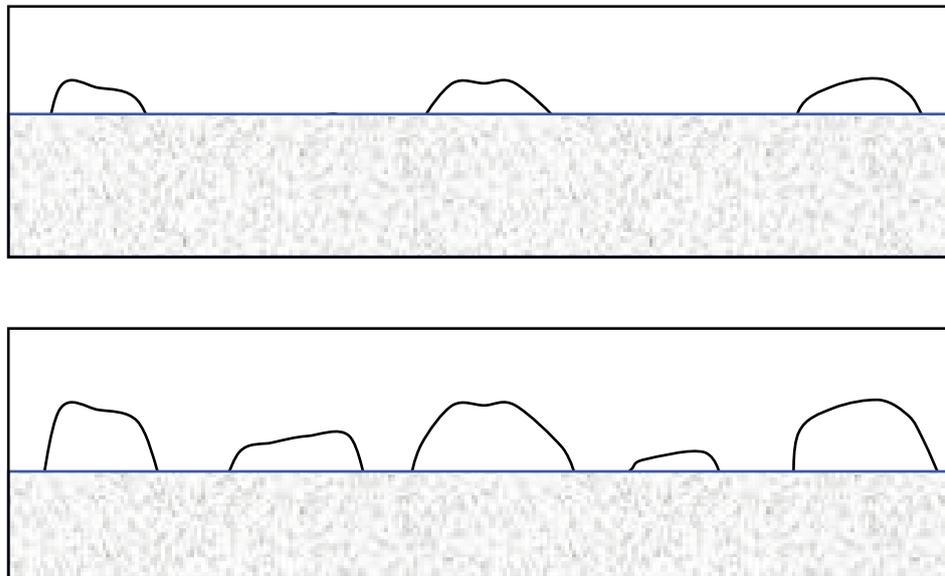
We were instructed to make it our priority to identify where permitted development rights could be extended in areas that currently generate the greatest number of applications for planning permission.

However, while seeking to reduce the number of planning applications overall, the brief requires that clear and robust arrangements must be retained to protect the interests of neighbours, the wider community and the environment from impacts of developments where these may cause significant harm to third party interests. Our brief also acknowledges a need to identify specific areas where there is a clearly justified case to limit permitted development rights.

### 1.3 Scoping the Study

Our study has followed a six month timetable to conform to the deadlines in the Planning white paper. The potential scale of the assignment made it important for us to scope our work carefully. It seemed unrealistic to embark upon a comprehensive review of the GPDO in its entirety. Such an approach would demand substantial inputs with no guarantee of the desired outcome – a reduction in the number of minor applications. It seemed more productive to build upon, rather than repeat the likes of Nathaniel Lichfield's<sup>5</sup> comprehensive 2004 study, and focus on the most potentially productive areas for achieving the kind of gains that the white paper sought.

**Figure 1: Opportunities for reforming the GPDO**



Besides, the GPDO is not necessarily the right place to start in identifying areas where planning controls could be most profitably relaxed. The danger of concentrating on existing permitted development limits meant that new areas of opportunity could be overlooked. A good analogy is that of a landscape, flooded by planning's regulatory controls, as illustrated

5 <http://www.communities.gov.uk/documents/planningandbuilding/pdf/148607>

in figure 1 opposite. Under this analogy, individual parts of the GPDO rise above the water like islands. If the waters recede, unsuspected areas of new land emerge above the surface which provide territory for us to explore.

Our approach therefore has been to focus on the existing number and the range of minor planning applications that local planning authorities deal with. In this way the pressures faced by different types of authorities in different areas could be investigated, and we would learn about common types of minor development and their success rates. By concentrating on minor applications with high success rates we felt that it would be possible to understand which kinds of development have little or no impact, so that subject to setting appropriate limits or conditions, these developments might be those most amenable to relaxation in terms of planning control. By contrast types of development with lower success rates suggest that their impacts are harder to predict or control. The scope for taking these applications out of the system would be significantly more limited.

## 1.4 Building an Evidence Base

We began by undertaking an initial examination of all areas of minor development – except those elsewhere under review – to identify new categories of development that might be designated as ‘permitted development’ and so not require a planning application. As described in chapter 4 below, we examined the weekly lists of 40 LPAs with a wide variety of characteristics to establish a better understanding of the number and range of minor planning applications being dealt with by local planning authorities. The variety of applications that this process threw up makes it very difficult to accord it a statistical significance. Importantly, however, it provides a good insight into the pressures that confront different types of local planning authority in different parts of the country and it does indicate what the commonest types of minor development are.

Chapter 4 goes on to explain how we undertook telephone interviews with 20 development control managers selected from a wide range of local planning authorities in England and Wales in order to add a qualitative dimension to our understanding of the main issues from their perspective. These interviews were free-ranging but structured around an outline script that sought to elicit views about the GPDO, and ideas about relaxing it.

We also advertised our study and held a number of interviews with interest groups where these were requested. Written feedback was received from a number of interest groups. Vital additional background was obtained from a literature review, concentrating especially on earlier studies of the GPDO, particularly those undertaken by Nathaniel Lichfield and Partners in 2004 for England and Wales and by Heriot Watt in Scotland, published in 2007.

## 1.5 Refining the Focus of the Study

This desk-based period of our study helped us to establish areas that we needed to examine in greater detail. This allowed us to exclude some complete Parts of the existing GPDO from the study. Table 2 lists all 40 Parts of the Order, but it was apparent that many of these offered little scope for relaxation of controls in a way which would reduce application numbers whilst still maintaining an impacts-based approach. Some of them (Parts 34 to 40) had only recently been created, whilst some (Parts 1, 24 and 25) have recently been reviewed elsewhere by Communities and Local Government or are currently being reviewed. Parts 9, 10, 11, 26, 27, 28, 29, 30 and 31 are specialised, seldom-invoked classes which we determined did not merit detailed review on the basis that minimal savings could be achieved. The feedback from Development Control Managers supported this conclusion.

An important area that we examined at some length, but did not eventually pursue in detail related to development by infrastructure suppliers and statutory undertakers (Parts 13 to 19). In part this was because there is, as the Lichfield study identified, some concern amongst local planning authorities and interest groups that these sectors already enjoy more liberal permitted development rights compared with other users; in part it was because permitted development rights relating to these sectors can be extremely complex such that relaxation of any individual rights within the GPDO would be likely to yield only a small reduction in the number of planning applications; and in part it was because we received only one representation (from a major ports operator) on this area and this sought broadly to maintain the status quo. British Waterways submitted detailed comments but these related to the impacts that third party developments potentially have on canals rather than on the 'permitted development' rights available to British Waterways, which we considered to be a civil matter rather than a matter for the planning system. We did examine whether Parts 13-19 are too liberal in relation to street furniture in conservation areas.

Our view therefore was that we should concentrate on just a few Parts of the existing Order – these were:

- Part 2 – minor operations
- Part 3 – charges of use
- Part 4 – temporary buildings and uses
- Part 5 – caravan sites
- Part 6 – agricultural buildings and operations
- Part 7 – forestry buildings and operations
- Part 8 – industrial and warehouse development

- Part 32 – schools, colleges, universities and hospitals

To examine these areas further, and to clarify possible new parts for the GPDO, we arranged a series of one-day stakeholder events that focussed on the following topic areas:<sup>6</sup>

- Rural and Agriculture – Gloucester      11th October 2007
- Flats and Institutions – Birmingham      18th October 2007
- Town Centres and Retail – London      26th October 2007
- Waste Management – Winchester      15th November 2007

The sounding boards included both presentations and discussion sessions and they proved extremely productive in identifying key issues. In order to obtain the widest possible range of views, and to generate discussion between different interests, invitations to the events were sent to a wide range of stakeholders representing all sides of the potential debate.

<sup>6</sup> A planned stakeholder meeting with Industry and Commercial stakeholders did not take place owing to a lack of take-up

**Table 2: The Town and Country Planning (General Permitted Development) Order 1995 (as amended) Parts 1 to 40**

Part 1:	Development within the curtilage of a dwelling-house
Part 2:	Minor operations
Part 3:	Change of use
Part 4:	Temporary buildings and uses
Part 5:	Caravan sites
Part 6:	Agricultural buildings and operations
Part 7:	Forestry buildings and operations
Part 8:	Industrial and warehouse development
Part 9:	Repairs to unadopted streets and private ways
Part 10:	Repairs to services (other than by local authorities and statutory undertakers)
Part 11:	Development under local and private acts or orders
Part 12:	Development by local authorities
Part 13:	Development by local highway authorities
Part 14:	Development by drainage bodies
Part 15:	Development by the Environment Agency
Part 16:	Development by or on behalf of sewerage undertakers
Part 17:	Development by statutory undertakers
Part 18:	Aviation development
Part 19:	Development ancillary to mining operations
Part 20:	Coal mining development by the Coal Authority and licensed operators
Part 21:	Waste tipping at a mine
Part 22:	Mineral exploration
Part 23:	Removal of material from mineral working deposits
Part 24:	Telecommunications code system operators
Part 25:	Other telecommunications development
Part 26:	Development by the Historic Buildings and Monuments Commission for England
Part 27:	Use by members of certain recreational organisations
Part 28:	Development at amusement parks
Part 29:	Driver information systems
Part 30:	Toll road facilities
Part 31:	Demolition of buildings
Part 32:	Schools, colleges, universities and hospitals
Part 33:	Closed circuit television
Part 34:	Development by the Crown
Part 35:	Aviation Development by the Crown
Part 36:	Crown Railways, Dockyards etc and Lighthouses
Part 37:	Emergency Development by the Crown
Part 38:	Development for national Security Purposes
Part 39:	Temporary Protection of Poultry and Other Captive Birds
Part 40:	Microgeneration

## 1.6 Lessons from our Approach

Our decision not to commence our study by examining the GPDO has been vindicated. A better targeted approach to regulation reveals opportunities for permitted development for retail uses and town centres, office buildings, hotels, nursing homes, churches, clinics, waste management and equestrianism, none of which now enjoy permitted development rights.

Our proposals for introducing permitted development rights in these areas are measured rather than ambitious because of the need to limit third party impacts, and additionally in some areas to avoid policy conflicts. But they establish the important principle that there is some development that can be allowed in those areas without the need for a planning application. This seems to us to be responding to the spirit of the proposals set out by Barker and in the Planning white paper.

## 1.7 The Structure of the Report

Our report that follows describes in detail the findings of our project. It is structured in three major parts.

Chapters 1 to 4 provide the necessary context to the project. Chapter 2, which follows this introductory chapter, looks at the General Permitted Development Order and its role in regulating development. Chapter 3 describes how we have interpreted our instruction to take an 'impact approach' to reviewing permitted development right, and what impacts mean to planners. Chapter 4 summarises the evidence that we have collected over the course of the study and on which we have based our subsequent recommendations.

Part 2 provides comment on a number of issues that cut across all parts of the GPDO. Chapter 5 considers major questions about the operation of the GPDO as a whole, and makes recommendations on how it can be made more user friendly which we consider a high priority. Chapter 6 considers and makes recommendations for improving Prior Approval processes, which were identified by the Steering Group as having significant deregulatory potential. Chapter 7 considers issues relating to sustainability and climate change which must underpin all future planning policy considerations. Chapter 8 examines issues relating to disability access which have demanded many minor changes to the premises of all businesses and suppliers of services following the passage of the Disability Discrimination Act.

Part 3 looks at the key areas where we consider reforms should be best targeted. Rather than structure these chapters on the existing GPDO as previous reviews of the GPDO have done, this part is structured on the major land uses as reflected for instance by the Government's PPSs and in the Use Classes Order. There are individual chapters on retail and town centres, industry and offices, institutions and leisure uses, rural areas, flats and waste management. Part 4 and our final chapter considers the

implications of our recommendations and how they might be taken forward in the future.

## 1.8 The Project Steering Group

The study has been supervised by a Steering Group chaired by Communities and Local Government with a membership representing:

- Welsh Assembly Government
- The Planning Officers Society
- The Welsh Planning officers Society
- BERR
- DEFRA

## 1.9 The Project Team

The Project Team was composed as follows:

- Jeremy Gardiner
- Jeremy Heppell
- Will French
- Stuart Goodwill
- Adrian Lynham
- Tracey Flitcroft

## 1.10 Acknowledgements

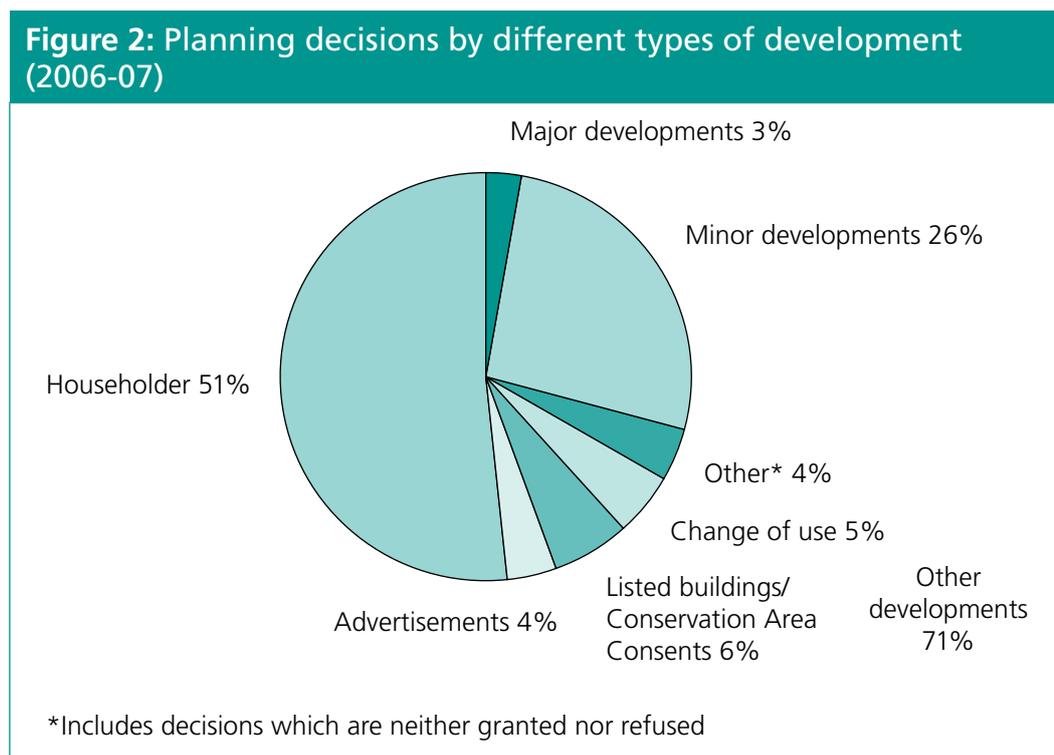
We have drawn extensively on the time and expertise of a large number of people and organisations. Many of these are listed in the appendix as having participated in the Stakeholder events or at other meetings. Others who are not listed by name have participated in one-to-one discussion with us, and others have provided us their written thoughts and suggestions. It is impractical to name everyone who has made an input into this work by name, but we have greatly appreciated all the contributions which have helped to shape and enrich the outcome. We hope that they will feel that their contributions have been worthwhile.

## 2 Areas of Study

### 2.1 Minor Developments

Although it excludes householder developments which represent around 50 per cent of all planning applications and were the subject of a review completed in 2007, the scope of the review is potentially very large. Broadly it covers all those developments reported by Communities and Local Government in its annual review of planning applications<sup>7</sup>, as Minor Developments together with those categorised under 'other developments' as 'change of use' and 'minerals'.

In total these developments represent over 30 per cent of all the planning applications that were made in England in 2006-07 (see Figure 2).



In its annual report of development control statistics Communities and Local Government disaggregates the categories of 'Minor' and 'Other' Development as indicated in table 3. Included are various small commercial, retail and industrial developments and a large but undefined group of 'others' all of which relate to minor developments of less than 1,000 square metres or to developments on sites of less than 1 ha.

As we discuss below, such 'minor developments' reflect the enormous variety of changes that the managers of all kinds of property make to their

7 <http://www.communities.gov.uk/documents/planningandbuilding/pdf/dcsengland0607>

premises to meet their business, economic, social or environmental needs. These developments have the wider effect of changing and shaping the detail of local environments, of impacting on the individuality and character of places. While they may be minor they can add up in a way that can have huge impacts which the planning system was established to manage.

A high proportion of applications for these minor developments are granted planning consent and these provide us with an obvious target for our work. However other developments that are termed 'minor' are really quite significant in planning terms as they often have considerable impacts beyond the host property. Chief amongst these are 'dwellings' which represent applications for all new residential developments of less than 10 units. In 2006-07 there were 67,300 of these in England. The fact that only 64 per cent of these applications were granted consent reflects the complexity of the impacts that even minor residential developments can raise. This makes them unlikely to provide any significant opportunities for extending 'permitted development' rights for these developments, and were scoped out of the study as an early stage.

**Table 3: Analysis of minor planning applications 2006/07 (England Only)**

	Decisions 000s	Percentage of all decisions	Applications granted	
			000s	%
<b>MINOR DEVELOPMENTS</b>				
Dwellings	67.3	11.5	42.9	64
Offices/research and development/light industry	5.3	0.9	4.6	87
General industry/storage/ warehousing	3.2	0.6	2.9	89
Retail, distribution and servicing	12.5	2.1	10.3	83
All other minor developments	62.7	10.7	53.8	86
<b>All minor development</b>	<b>151.1</b>	<b>25.7</b>	<b>114.6</b>	<b>76</b>
<b>OTHER DEVELOPMENTS</b>				
Change of use	31.7	5.4	24.6	78
Minerals	0.1	–	0.1	91
<b>HOUSEHOLDER DEVELOPMENTS</b>	297.7	50.7	256.0	86

Source: CLG development control statistics

## 2.2 What are 'Permitted Development' Rights?

Before exploring the finer points of the General Permitted Development Order it is important to understand the role of this Statutory Instrument and its significance to the way that development is regulated in England and Wales.

Since the first Town & Country Planning Act in 1947 all development has required planning consent from the 'designated planning authority' (in most cases the local unitary or district council). Section 55 of the current (1990) Act defines development as:

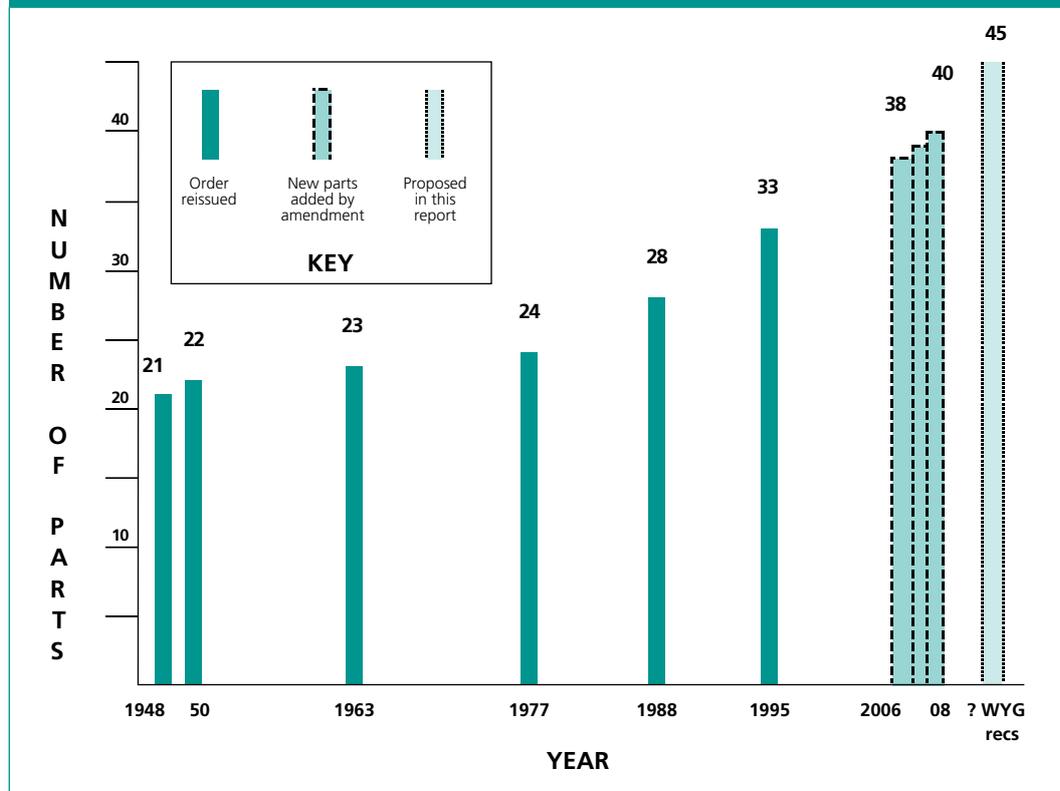
*"the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land"*

This definition of development is extremely wide, and potentially captures far more than the 650,000 or so planning applications that are now made each year in England alone.

To keep the workload of planning authorities to manageable levels, the 1947 Act made provision for 'General Development Orders' that accorded 'permitted development' status to minor works which, though falling under the Act's definition of 'development', meant a separate planning consent for them would not be required.

Since 1948 (when the first such Order was made) General Development Orders have been revised and extended on a regular basis (see Figure 3). Current permitted development rights are set out in the most recent Order which was published in 33 Parts in 1995 as 'The Town and Country Planning (General Permitted Development) Order 1995'. This Order has itself been subsequently amended on a number of occasions since and a further 7 Parts have been added to it. There are now 40 parts of the GPDO as listed in table 2 but the complete Order is not collected together in its entirety either as a publication or on any Government website.

**Figure 3: Growth of the General Permitted Development Order and its predecessors (1948 to date)**



While there is wide consensus that the GPDO operates tolerably well, its very nature raises a number of difficulties that have helped to create a perception amongst some of its users that the planning system has become overly obsessed with detail. We discuss these below when we consider the basic principles that might underlie the setting of permitted development limits.

However there is one fundamental problem with the system that merits flagging now. Because it grants consent for every development that conforms to the limits it describes, the GPDO is a legal device carefully drafted to meet all circumstances and to avoid subsequent disputes about interpretation. While such levels of precision are essential to achieve this purpose, the GPDO's legal complexity makes it a very difficult document for non specialists to find their way around and interpret. A rather strange paradox now exists in that it requires some significant experience and technical knowledge to understand which developments the Government considers to be so trivial in nature that they do not warrant a planning application. It is not uncommon for unnecessary planning applications to be made as a result and, as we discuss in Chapter 5 some significant gains would be achieved by addressing this problem.

## 2.3 The GPDO – General Issues and Problems

Our examination of LPA Weekly Lists has provided us with candidate categories of development that might form the subject of further evaluation.

This exercise raised a number of important points of principle that need noting in this chapter.

### **1. Intensifying Demands on the Planning System.**

Rapid economic, social and environmental change has meant there has been piecemeal amendment of the GPDO over the years and this has increased and exacerbated its complexity.

If anything, pressures for further change to the GPDO are intensifying. The Planning system is coming under increasingly critical scrutiny from the ever-expanding community of its key stakeholders as evidenced for instance by the volume and the range of submissions to the Barker Review. At the same time a host of new demands are being exerted on it which were not envisaged when the current GPDO was introduced in 1995. These include the awareness of climate change, new technologies, policy and legislative changes impacting on both urban and natural environments, national threats ranging from civil defence and flooding to bird flu, and heightened concerns about the shape of local development on the part of increasingly articulate communities and other interest groups.

The challenge for the future is to develop a system that can balance all these interests most effectively and be more readily amended and updated to respond to future changes, without creating unnecessary new bureaucracy or adding to complexity.

### **2. Barriers to change**

These pressures ought, perhaps, to mean that the GPDO is kept under a more continuous process of updating and review than has been the case since 1995. However, over the course of our study it has become apparent how strong are the forces that make this difficult. The GPDO covers so many types of development that it is very difficult to view it as a single entity. This has meant that efforts to reform the GPDO as a whole, most recently that made by the 2004 Lichfield Review, run into difficulty because they find themselves seeking to reconcile too many opposing objectives.

The task that Communities and Local Government has set us may prove equally challenging to follow through. While it undoubtedly does contain a few anomalies, the limits the GPDO sets to 'permitted development' are generally based on sound principles. Identifying areas where rights might be relaxed or streamlined inevitably raises concerns about the potential risks that would arise if development is less regulated. The voices that argue for retaining particular controls tend to be more articulate and better organised than those arguing for relaxation. We have generally found it easier to excite interest in our study on the part of those who would preserve controls than from those who would relax them. Perhaps this is because our study is simply dealing with planning's myriad minutiae in a way that does not greatly generate deregulatory interest, but the case for retaining controls is strongly made and cannot be ignored, nor should it.

Further problems arise because the GPDO does not exist in an isolated regulatory environment – instead it forms part of a much greater family of controls governing the ways we manage our environment. Some of the other regimes that complement planning and the GPDO include building control, environmental health regulations, health and safety, pollution controls, habitat regulations, disability discrimination legislation, liquor licensing, advertisement controls, tree preservation and high hedges.<sup>8</sup>

Each one of these regimes has evolved over time separately from the others, to meet the changing expectations and demands on them. It becomes an extremely difficult challenge to ensure that as each one changes to respond to the external environment that they regulate, they neither overlap with one another and create inefficiencies or contradictory outcomes, nor leave gaps that leave an absence of control where controls are required. Making changes to the GPDO in these circumstances can thus raise potential difficulties with all the other regulatory authorities that manage the other regimes as well as the stakeholders that have an interest in them.

To a large extent, planning's development control function where it concerns minor developments has become a kind of catch-all instrument that pursues different policy goals and plugs regulatory gaps that cannot be or are not addressed through other means. Many of these policy goals are described in some detail in the Lichfield and Heriot Watt reviews although they have moved on considerably since then – for instance in the areas of climate change and response to flooding. Just because they are minor does not mean that they can be regarded as being unimportant.

To what extent would these goals be threatened if individual permitted development limits are extended and how much does this matter? To what extent can and should other regimes pick up responsibility for pursuing these goals, rather than leave them all in the hands of an overstretched planning system? These are questions that extend a long way beyond our brief, and often into areas that are the responsibility of other Government Departments. But it is important to raise them because their ability to influence the opportunities for reforming the system is so strong; and we do so in summary tables throughout our report.

### 3. One size fits all or local variation?

Unless the GPDO explicitly excepts them, permitted development rights apply in all circumstances and in all parts of the country. Most Parts of the Order contain exceptions and conditions that exclude developments that are in other cases treated as permitted. These exceptions are particularly significant in sensitive areas listed under **Article 1(5) of the GPDO** – national parks, areas of outstanding natural beauty (AONBs), conservation areas, and the Broads and the logic of identifying these areas is well understood and generally accepted.

<sup>8</sup> The 2004 Halcrow report examines the relationships between many of these regimes and the challenges to unifying them.

However, every exception to the general rules adds to the GPDO's complexity. This raises difficult questions when considering whether additional types of development should be treated as permitted in particular circumstances. Many developments could be 'permitted' in parts of the country, but in a few areas they raise concerns that local planning authorities can control through a planning application. But why must a developer who wishes to undertake a development that is considered uncontroversial in most parts of the country be required to make a planning application just because that type of development might raise problems in a relatively few specific locations? For example, must it really be necessary to apply for planning permission to install a domestic microturbine anywhere in the country just because microturbines can cause problems to radar equipment if they are installed close to airports? What other methods might be available to regulate them?

Perhaps individual planning authorities should be able to decide for themselves what should be permitted for their areas. The 2004 Planning and Compulsory Purchase Act sought to encourage local planning authorities to do just this by giving them powers to declare their own **Local Development Orders**. The take up by local authorities of these powers has been disappointingly slow, perhaps because of the work that it would entail for them for little obvious benefit. Whether or not this is the case, it seems likely that the task of deciding which categories of development should or should not require a planning application will rest with the Government for the foreseeable future.

Other problems arise where the cumulative impacts of permitted developments are so great that they start to create demands for restrictions on developments that are considered low impact when they do not occur too widely. Paving over one front garden, for example, may have moderate impact beyond the host property, but when every front garden is paved there can be serious degradation of the urban environment, loss of wildlife habitat and a seriously heightened risk of flooding.

The only means available to LPAs to respond to this problem is through the use of powers under **Article 4** of the GPDO which allows permitted development rights to be withdrawn in exceptional circumstances. However, as the Planning white paper notes, there are major constraints on the use of Article 4 directions by local planning authorities relating to the work and the procedures for making such directions and the possibility of compensation payable in the event of refusal or conditional grant of a planning application when an Article 4 direction is made. The current Planning Bill is addressing the compensation question, and this is a welcome development. However our discussions with Development Control managers suggest that many of them may continue to find it difficult to find adequate resources to formulate new Article 4 directions.

There are, anyway, arguments against devolving decisions on permitted development too far. This can lead to serious uncertainties for the many businesses that operate on a basis that is wider than strictly local. The

Government's 2006 Microgeneration strategy<sup>9</sup> describes how the diversity of standards that LPAs were adopting when asked to approve new microgeneration technologies was so great that the fledgling microgeneration industry found it was becoming a significant barrier to the growth of an industry that Government considered a priority one. The 2006 Climate Change and Renewable Energy Act<sup>10</sup> made it the duty of the Government to review the system in order to establish national permitted development limits for domestic microgeneration.

## 2.4 Conclusion

Considerable barriers to meaningful reform of the GPDO exist, but as we explain in the following chapter we agree with Kate Barker that the greatest opportunities for resolving these barriers lie in taking an 'impact approach' to reform. Such an approach would establish appropriate permitted development thresholds by relating them to the way an 'average' planning authority would assess applications made to it for different categories of minor development and codifying these limits in a revised development order.

However we also believe that significant scope exists for simplifying the procedures for approving the most minor developments by developing and reforming the existing system of Prior Approvals which is already provided for under some parts of the GPDO.

9 <http://www.berr.gov.uk/files/file27575.pdf>

10 [http://www.uk-legislation.hmso.gov.uk/acts/acts2006/pdf/ukpga\\_20060019\\_en.pdf](http://www.uk-legislation.hmso.gov.uk/acts/acts2006/pdf/ukpga_20060019_en.pdf)

## 3 An Impact Based Approach

### 3.1 What do planners mean by impacts?

In her report Kate Barker calls for the GPDO to be reviewed using an impact approach. But just what does this mean?

In our view the approach reflects the assessment that is undertaken every day by local planning authorities when determining planning applications. Planners know that most developments will have an impact, and their task is to determine its significance and whether there would be any demonstrable harm caused by the proposal to neighbours, the character of the building, the character of the area, sensitive areas and highway safety. Having done this, planners can consider whether there are ways to minimise or mitigate that harm.

In other words, in considering a proposed minor development, the primary concern of planners is to assess the impact that the development will have on its surroundings. This approach however is not always used in the current GPDO where development is often permitted up to thresholds or limits such as the volume of any increase that is allowed. Many of these thresholds pay no reference to the context in which the development is to take place.

As a consequence, two different assessment procedures appear to operate and this becomes a cause of frustration when minor developments that would be refused if consent for them is applied for, are permitted under the GPDO, and vice versa. A more consistent approach that aligns the GPDO more closely to planning practice will help both members of the public and professionals to understand the reasons behind planning decision making.

### 3.2 Levels of impact

The principles that underpin this approach for householder developments are explained in detail in a study by Sparks and Jones<sup>11</sup> and were used in the 2007 Householder Development Consent Review (HDCR).<sup>12</sup>

In their work, Sparks and Jones examined the types of impacts that a householder development can give rise to, and they suggested that there are four broad levels of impact. Their analysis provided a useful framework for understanding precisely the types of impact that the HDCR's proposed Householder Permitted Development Order needs to control and how these can be measured and quantified.

<sup>11</sup> <http://www.communities.gov.uk/documents/planningandbuilding/pdf/151750>

<sup>12</sup> <http://www.communities.gov.uk/documents/planningandbuilding/pdf/322859>

The four levels proposed by Sparks and Jones are as follows:

- **Level 1: Impacts on the host property:**  
changes that affect the host property – internal changes to the layout of the building, and changes to the appearance of the building and minor external changes that planners consider do not materially affect neighbours or the public street scene
- **Level 2: Impacts on adjoining neighbours**  
changes that may affect adjoining properties and neighbours, including overlooking causing loss of privacy, overshadowing causing loss of daylight, creating an overbearing presence causing loss of aspect or openness, disturbance causing loss of peace and tranquillity in terms of noise, light pollution, fumes and smells
- **Level 3: Impacts on the street scene**  
these are changes that impact on the character and appearance of a street or neighbourhood. Greater importance is attached to elevations which front a public area or are visible from a public highway, as opposed to those which face away from it
- **Level 4: Impacts on interests of wider importance**  
these are changes that may affect wider interests than those of neighbours or the immediate neighbourhood. Typically they relate to sensitive areas which national policies seek to protect – National Parks and AONBs, Conservation Areas, or Green Belts, or where they impact on national concerns such as increasing flood risk or highway safety

### 3.3 Potential impacts of non-householder minor developments

Barker suggests that these principles should be carried forward to be used for non householder development given that the level of impacts will be broadly similar and fit into similar bands, albeit with a wider variety of impacts.

The key impacts for non householder developments are significantly more varied than those of householder developments because they cover a much broader range of issues varying from changes of use of land or buildings, the erection of new buildings or extensions, installation of plant and alterations to buildings. Depending on what is proposed, these types of development can, have significant impacts on neighbours and the character of the site and surroundings and they have the potential to have a much more significant and widespread impact than most householder developments.

Although this list is not exhaustive the key potential impacts of non householder minor developments are detailed below. The list reflects the majority of impacts that we have considered in this study.

## Overlooking

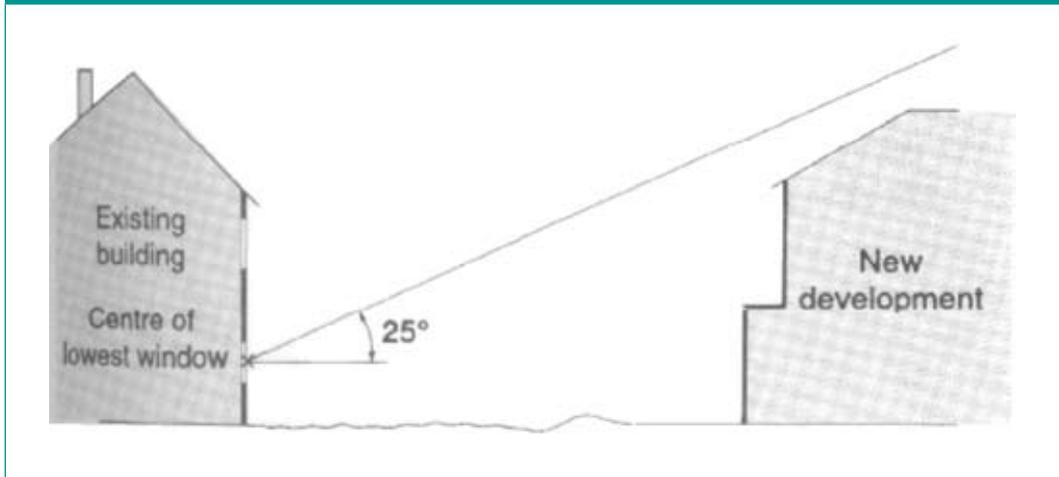
In a similar way to householder development, overlooking is a key impact that is considered by planners for many minor developments. Overlooking is most commonly an issue when the adjacent property is in a residential use, but it can also occur when the adjoining use is a hotel, hospital or office. For example if a business use exists adjacent to a residential property and if the business inserts a first floor window to serve an office area, whilst this is considered a minor alteration, if the window overlooks a garden area it may cause a significant loss of privacy for the occupiers of the house that would impact on the enjoyment of their property. Even if existing windows are present, additional windows can increase the perception of being overlooked which in itself compromises the privacy of the garden. Problems of overlooking can also arise when distances between windows in a business use and a private residential property are so close that they lead to overlooking and loss of privacy for primary living accommodation. This impact is the same if the property is an industrial, institutional or other use. Overlooking is therefore an important consideration when determining tolerances for the GPDO.

## Overshadowing (loss of daylight)

There are two components of daylight (natural light): skylight and sunlight. Skylight, sometimes known as diffuse skylight, is light which is diffused all around us even on cloudy days, whilst sunlight is the light which comes directly from the sun on clear days. Both can raise concerns to planners. Building Research Establishment (BRE) suggests three indicators for assessing skylight, and two for sunlight<sup>13</sup>. Planners do not regard them as mandatory, when they consider a planning application, but *indicate* whether there is a potential overshadowing issue.

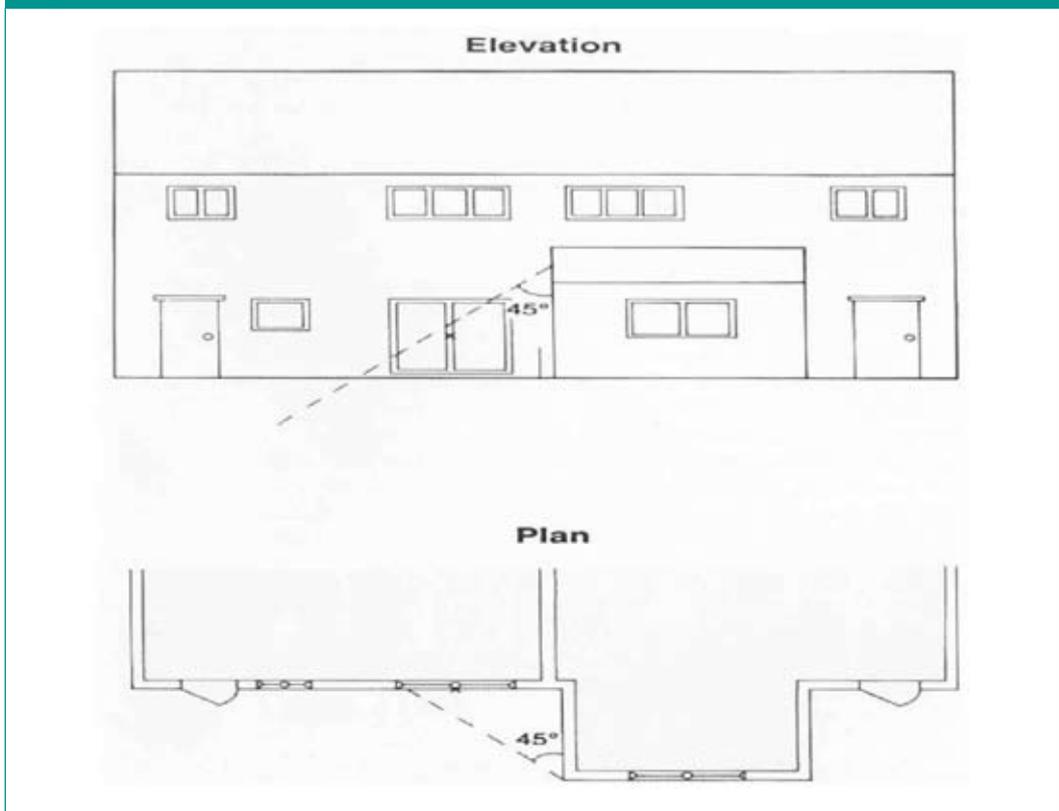
- Skylight indicators:
  - i) '25 degree' line governs new development directly facing existing windows. If a new building or extension breaches a perpendicular line at an angle of 25 degrees above the horizontal taken from a point 2 metres above ground level on an existing house, it is likely that windows in the existing house will experience overshadowing (figure 4).

**Figure 4: The 25o rule (Source: BRE)**



- ii) '45 degree' line' governs new development at right angles to existing windows. Two 45° lines should be drawn on the elevation drawing and plan drawing. The 45° line on the elevation plan should be drawn diagonally down at an angle of 45° from the near top corner of the extension towards the nearest neighbouring window. The 45° line on the plan drawing should be drawn diagonally back from the end of the extension towards the nearest neighbouring window. If both lines cross the centre point of a neighbouring window it is likely that overshadowing will occur (figure 5).

**Figure 5: The 45° rule (Source: BRE)**



iii) *'43 degree' indicator* This is used for a development close to a boundary to avoid sterilising potential development on land on the other side of the boundary. If a new building breaches a perpendicular line at an angle of 43° above the horizontal taken from a point 2 metres above ground level on the boundary, it is likely that adjoining land will suffer from overshadowing.

- Sunlight indicators:

i) *'25 degree' line*: Adjoining occupiers are particularly likely to notice a loss of sunlight to their property or their amenity areas. The simplest impact indicator recommended by BRE is a 25° line, which operates in the same way as the Skylight 1 indicator (though it is not applicable to north-facing windows).

ii) *Sunlight indicator: amenity areas*. BRE recommend that no more than 40 per cent of any private garden (excluding small front gardens) should be prevented from receiving any sun at all when the sun is at its equinox (ie on 21 March). BRE advocates the use of shadow plans to assess whether large buildings are likely to affect adjoining gardens.

The current GPDO does not restrict developments that breach these indicators. However, just as planners seek to protect adjoining residential uses from loss of daylight, when considering a proposal for a business, industrial, or institutional use, they also seek to avoid loss of light to neighbouring properties if it compromises the space and operation of the adjoining user. The GPDO needs to retain similar controls, particularly in cases that would result in an increased need for artificial lighting contrary to wider sustainability objectives.

### Overbearing presence (loss of aspect or openness)

Loss of aspect or openness is not as specific in its harmful impact as overshadowing, but it is an impact that planners consider. Tolerances need to be sufficient to protect adjoining users from overbearing large or poorly located developments and alterations. The relationship between the height of a new building and its proximity to a boundary is a key concept in determining whether the new building would be unneighbourly. Many local plan policies carry references to overbearing impacts although the concept is not codified in a meaningful sense within the current GPDO. A key consideration concerns the proximity of a development to a common boundary. BRE offers the following advice: "A well designed building will stand a reasonable distance back from the boundaries so as to enable future nearby developments to enjoy similar access to daylight. By doing so it will also keep its own natural light when the adjoining land is developed."

### Out of character

This is another impact that relates to both householder and non householder development. To be out of character a scheme does not necessarily have to be too big or in the wrong location, it could be of an incongruous design that

doesn't fit in with its surroundings or the building style. Whilst being out of character doesn't impact on amenity of adjoining properties or users, it does impact on the appearance of the building or the overall appearance of a street scene or wider area. Good design is indivisible from good planning and the GPDO must ensure that development permitted does not detract from the character of the area.

### Noise

This is a key impact that would be considered by planners for non household uses and they would look at the noise generated by the proposed/existing use and noise and nuisance caused by travel to and from the site. In all circumstances this would be assessed against the existing use of the site and its relationship with the surroundings. Noise would also be a consideration for minor alterations such as new opening in an existing or proposed business use. Similarly, noise impact is one of the biggest considerations when assessing plant applications, such as air conditioning units, mechanical extraction systems and condensers. As such, it is important that the GPDO set appropriate tolerances or controls to adequately protect amenities of adjoining properties and the surroundings from noise disturbance.

### Light

Non-domestic lighting has the potential to cause nuisance to neighbours and the wider environment. This can be a particular issue in relation to security lighting, particularly lighting which is subject to a time switch or being triggered by movement. In general such lights are exempt from planning permission unless installed on a purpose-built structure which itself needs planning permission. It is not within the remit of this review to examine disturbance from light sources though it is acknowledged that this is an issue which could merit investigation.

### Fumes/Dust

Some non household development has the potential to result in fumes and dust generation that can impact on air quality and adversely effect the amenities of surrounding properties and compromise the quality of the surrounding and wider environment. Whilst this is typically related to more larger scale developments it is an important consideration when devising the GPDO.

### Highways

Traffic generation is a consideration for any type of development; however with non householder development there is often more of an opportunity for increased vehicle movements and different scales of vehicles being involved. These additional movements and types of vehicles often have the potential to result in noise and amenity issues as detailed above but also to overload highways and junctions, which neither have capacity nor are not suitable for the number of vehicles that would be generated. This in turn has the potential to result in highway safety issues for road users and pedestrians and/or impact on the character of the particular area. It is therefore important that the GPDO does not introduce proposals that generate

additional traffic movements that will affect highway safety or the character of the area.

### Sensitive areas

Development which are acceptable in most situations can be harmful in areas that are given extra protection because of their sensitive nature. Planners consider these level 4 impacts when considering a planning application in these locations, and the impact approached to 'permitted development' means that the GPDO needs to reflect them too. This GPDO needs to take account of the objectives for the following types of protected area:

- *national parks/areas of outstanding natural beauty*: long standing policies to protect the natural beauty of protected landscapes in these designated areas mean that tighter controls in national parks and areas of outstanding natural beauty maybe required than would be warranted outside those areas
- *conservation areas*: conservation areas (CAs) are designated under the Planning (Listed Buildings and Conservation Areas) Act 1990 to protect the collective importance and character of the buildings and their relationship to each other. CAs require additional controls for publicly-visible alterations to preserve or enhance the character or appearance of the area
- *green belts*: green belts are defined by their openness rather than their landscape character. They are given no special protection in the current GPDO and in the context of the brief for this review, additional limitations on permitted development rights in these areas would need to be very well justified
- *areas of ecological importance*: chapter 7 describes how the Habitats Regulations remove permitted development rights for developments likely to have a significant effect on important ecological area. These Regulations appear to work satisfactorily so as to remove the need for tighter limits on development than those which apply elsewhere

## 3.4 Implications for setting permitted development limits:

In using an impact approach to set permitted development rights, it is desirable to develop general principles about what the thresholds are beyond which a development is considered to have an impact that a proportionate planning system may need to control. Fundamental to the impact approach is to provide appropriate controls over permitted development limits to protect neighbours and the wider community from adverse Level 2 and Level 3 impacts. Tolerances which maximise the level of permissible development whilst controlling adverse neighbour impacts should be the aim of an improved system of permitted development.

On the basis of the considerations above, we propose that the following principles should provide the basis for determining permitted development limits.

Developments that have only Level 1 impacts should generally be permitted by the GPDO because, by definition, they do not have planning impacts beyond the host property. However, the clarity of this principle is affected by the need to respond to the cumulative impacts of development particularly in response to the demands of climate change such as the increased risks of flooding. The Environment Agency and PPS25 now seek to restrict permitted development rights for vulnerable uses in high flood risk areas because of the potential threat to life that this can create.

Our experience is that most Level 2 impacts can be controlled with the use of quantitatively-expressed tolerances. Typically, these might take the form of maximum height restrictions or minimum set backs from boundaries which can be easily measured and verified. While they may be harder to measure, we think it is desirable to develop other quantifiable limits to measure noise or light as experienced by nearby occupiers.

Similar quantitative measures may also be appropriate to control some Level 3 impacts, although others may require more subjective judgements which do not lend themselves to control by quantitative tolerances alone. Some developments that affect the street scene may therefore be more amenable to the use of a prior approval arrangement as we discuss in chapter 7 where an LPA may have developed its own design criteria or wish to comment on general matters of siting and design.

Level 4 impacts are likely to be addressed by modifying Level 2 and Level 3 tolerances as appropriate to meet the policy objectives set out in national government policy PPSs and PPGs

### 3.5 Towards a generalised schedule of impact thresholds

We have used the principles as set out above to propose a set of impact thresholds which could be applied with the GPDO to ensure a consistent approach.

These are set out in Table 4 which proposes the thresholds that should apply at each impact level. In most instances, in our detailed recommendations in this report we propose that these thresholds should provide the permitted developments thresholds for all types of development.

However, in a number of cases, there are reasons why these thresholds need to be adjusted, by making them either more or less restrictive, depending on the context. The fourth column of table 4 indicates where, in our recommendations, there are exceptions to the general principles. The broad justification for each of the adopted thresholds is set out below:

**Floor area of additions to vulnerable uses in flood risk areas:** upper threshold set at 250 sq m based on the Environment Agency's definition of a minor development.

**Basements in flood risk areas:** Environment Agency advice is that basements in flood risk areas should require full planning permission in all instances

**Distance of extensions or new buildings from boundary:** to ensure no adverse impacts on adjoining landuses, a minimum distance of 5m to the boundary has been adopted, based on that currently found in Part 8 of the GPDO. Exceptions are where developments are limited to single storey or less in height, such as shop extensions, bin stores/trolley bays and DDA works

**Height of new buildings or extensions:** to avoid overshadowing of adjoining landuses, the maximum height of new buildings is set at 5m. Where an existing building is higher than 5m, an extension can be built to the same height provided it is located at least 10m from the site boundary. For bin/trolley stores and DDA accesses a lower height threshold is proposed, appropriate to such developments

**Noise, vibration and light spillage from plant and machinery:** because plant and machinery carries the risk of nuisance to neighbouring properties, new installations should be subject to a Minor Development Certificate Procedure (chapter 6) so that potential nuisance can be addressed. The only exception is where a site is in general industrial use, since a level of nuisance is already assumed to be inherent

**Massing:** in order to protect street scenes from harm, development closer to a highway than existing buildings should continue to require planning permission, a frequently used limitation within the current GPDO

**External appearance:** there should be a general requirement for materials to match existing buildings(s) on the site, which is a commonly found requirement in the current GPDO. The only exception is field shelters, which are unlikely to be sited near existing buildings.

**Significant elevational changes:** planning control should be retained over such changes, normally via a full application, but in the case of shop fronts and automated teller machines, via the Minor Development Certificate procedure

**Floor area (extensions):** maximum 50 cu m up to 25 per cent additional floorspace, to allow for operational changes but without buildings being enlarged excessively. For schools, universities and hospitals a higher threshold of 100 cu m recognises that they commonly occupy larger buildings on larger sites. Historically industrial uses have had generous floorspace limits of up to 1,000 sq m, which would remain unaltered

**Floor area (new buildings):** maximum 50 cu m, or 100 cu m for industrial and institutional users, allowing modest new buildings to be added as operational requirements dictate, whilst ensuring that larger new buildings require planning permission. Shops and offices are excluded from the new buildings allowance on the basis that they are usually single entities with no requirement for additional buildings

**Ground coverage:** a limit of 50 per cent ground coverage by buildings ensures that large sites in commercial or institutional use do not become overdeveloped by the addition of new buildings using 'permitted development' rights. Exemptions would apply to shops and offices which have no rights to erect new buildings as 'permitted development'

**Onsite turning and maneuvering areas:** as in the current GPDO, there should be no ability to develop on these areas using 'permitted development' rights

**Surface water runoff:** hardstanding up to 50 cu m, or 100 cu m on industrial sites, to be permitted. In accordance with strong Environment Agency advice, hardstandings should be porous (except where there is a risk of pollution) in order to minimise surface water runoff from new development

**Listed buildings:** there should be no permitted development within the curtilage of listed buildings

**Table 4: “Read Across” schedule of impact thresholds**

<b>Impact Level</b>	<b>Area of Potential Impact</b>	<b>Proposed General Threshold</b>	<b>Exceptions to General Thresholds</b>
<b>Level 1</b>	Floor area of additions to vulnerable uses in flood risk areas Basements in flood risk areas	Maximum 250 m <sup>2</sup> Require planning permission	
<b>Level 2</b>	Distance of extensions or new buildings from boundary	Minimum 5m	<ul style="list-style-type: none"> <li>• Bin stores/trolley bays – no minimum</li> <li>• DDA works – no minimum</li> <li>• Single storey shop extensions – minimum 2m</li> </ul>
	Height of new buildings or extensions	Maximum 5m	<ul style="list-style-type: none"> <li>• Extensions more than 10m from a boundary – height of existing building</li> <li>• Bin stores/trolley bays – 2.5m</li> <li>• DDA works – 2m</li> </ul>
	Noise, vibration and light spillage from plant and machinery	Minor Development Certificate required for all plant and equipment	<ul style="list-style-type: none"> <li>• General industrial – permitted development</li> </ul>

Impact Level	Area of Potential Impact	Proposed General Threshold	Exceptions to General Thresholds
<b>Level 3</b>	Massing	New buildings or extensions no closer to highway than any existing building	<ul style="list-style-type: none"> <li>Bin stores/trolley bays – no limitation</li> <li>DDA works – no limitation except in Conservation Areas where MDC required</li> </ul>
	External appearance	Materials to match existing	<ul style="list-style-type: none"> <li>Field shelters – no control</li> </ul>
	Significant elevational changes	Minor Development Certificate required for new shopfronts and ATMs	<ul style="list-style-type: none"> <li>In Conservation Areas – full planning application.</li> </ul>
	Floor area of extensions	Maximum 50m <sup>2</sup> up to 25% of original	<ul style="list-style-type: none"> <li>Research and development, light and general industrial, storage – 1,000 m<sup>2</sup> (500m<sup>2</sup> in sensitive areas) up to maximum 25%</li> <li>Colleges, universities and hospitals – 100 m<sup>2</sup> up to maximum 25%</li> </ul>
	Floor area of new buildings	Maximum 50m <sup>2</sup>	<ul style="list-style-type: none"> <li>Research and development, light and general industrial, storage, colleges, universities and hospitals – 100 m<sup>2</sup></li> <li>Shops – new buildings to require a planning application</li> </ul>
	Ground coverage	Maximum 50% ground coverage by buildings	<ul style="list-style-type: none"> <li>Shops and offices – no limitation</li> </ul>
<b>Level 4</b>	Onsite turning and manoeuvring areas	No permitted development which would lead to the loss of such areas	
	Surface water runoff	All hardstanding to be porous, up to maximum 50m <sup>2</sup>	<ul style="list-style-type: none"> <li>Research and development, light and general industrial, storage – 100 m<sup>2</sup></li> <li>May be non-porous where there is a risk of pollution</li> </ul>
	Setting of listed buildings	No permitted development	

# 4 Establishing the Evidence Base

## 4.1 Introduction

The evidence base in our review comprises the following:

- Literature Review
- Interviews with Development Control Managers
- Review of Weekly Lists
- Sounding Boards
- Other representations received.
- English National Planning Policy and Guidance
- Planning Policy and Technical Advice Notes for Wales
- Development Plan Policies

## 4.2 Literature Review

### Purpose

Our literature review examines previous studies of the GPDO and its Scottish Equivalent as well as at the recommendations made for an impact based approach for setting new permitted development limits for Householder Development. The review highlights the key findings of these studies and their lessons for the present study.

### **Nathaniel Lichfield and Partners' Review of Permitted Development Rights<sup>14</sup>**

With a wide ranging brief covering all aspects of the GPDO, Lichfield evaluated the impact, effect and effectiveness of the GPDO regime in England.

Lichfield's 340 page report starts with introductory chapters examining the system as a whole. Individual chapters then examine each Part of the GPDO, identifying specific concerns, and the scope and detailed recommendations for change. Each chapter contains a table summarising the efficacy of existing rights and the recommendations for change. Key recommendations for changing 'permitted development' rights are to:

<sup>14</sup> <http://www.communities.gov.uk/documents/planningandbuilding/pdf/148607>

- widen rights in a few areas particularly for Part 12 (Remove school development), Parts 32 (increased limits for extensions to universities, colleges and hospitals, Part 6 (allow a per cent increase to industrial buildings rather than volume)
- restrict 'permitted development' rights in a number of Parts including those relating to: Minor Operations, Caravans, Agricultural Development, Forestry Development, Repairs to Services, Development by Local Highway Authorities, Development by Railway Undertakers, Development Ancillary to Mining Operations, Driver Information Systems, Demolition, CCTV
- delete little used rights: Toll Road Facilities and Historic Buildings Commission
- improve the interpretation and the user friendliness of the GPDO in a number of ways including improving its drafting, providing new definitions where required and publishing relevant guidance

As a root and branch evaluation of the GPDO the report provides a rich body of evidence. In particular, the recommendations for relaxing 'permitted development' rights can provide a good starting point for the current project.

However, the fact that so few of Lichfield's recommendations have been implemented is a matter for concern. If our own project is not to prove equally nugatory we need to consider the reasons why. Key points to consider include:

- Lichfield sought both to reform the system of permitted development rights in principle and to revise the individual Parts of the Order
- the very wide scope and the ambition of the study meant that it became too big a 'bite' for Government to pursue in one go
- the conflicts that the study itself exposed between different policy objectives were not clearly resolved

Perhaps it was the last two of these issues that meant the more fundamental reforms proposed by Lichfield remain unaddressed. Amendments to the GPDO in England continue to be incremental and responsive to new Government priorities e.g telecoms, microgeneration and bird flu. While each of these areas has a clear policy imperative, the cumulative consequence has been to add complexity to what Lichfield felt was already a cumbersome instrument of regulation.

## Heriot Watt's 'Review of the General Permitted Development Order 1992' for the Scottish Executive<sup>15</sup>

A comprehensive study of the GPDO in Scotland<sup>16</sup> sought 'to identify *any* issues which arise from the way the GPDO operates in practice'. Although inevitably concerned with Scottish priorities that may differ from those in England, (but perhaps to a lesser extent Wales), the study (published in 2006) contains some essential material that is highly relevant to our own project.

The study is built around a considerable body of evidence, much of which is relevant to England and Wales. It offers a particularly helpful starting point for our own identification of priority areas, especially our work on agriculture, industrial and warehouse development, development by Statutory Undertakers, and waste management. It also contains important evidence on the operation of Prior Approvals.

Heriot Watt's audit of the GPDO against wider Government priorities is also informative and helpful for new areas eg climate change and waste. There is an illuminating discussion on the apparent discrepancy between the generosity of rights accorded to farming, forestry and Statutory undertakers in Scotland, and those shown to other businesses.

The Heriot Watt study contains 100 recommendations. Some of these are general recommendations that seek to make the GPDO easier to use, improve consistency across Classes and generally make the GPDO a more positive mechanism for linking deregulation with amenity and design quality through specification of national standards for minor development. Other carefully justified recommendations propose amending individual parts, in order to achieve a number of different objectives as summarised in table 5.

The report also contains recommendations on the use of Article 4 directions and on Prior Notification – which we refer to in the discussion later on in this report.

<sup>15</sup> <http://www.scotland.gov.uk/Publications/2007/03/29102736/15>

<sup>16</sup> Note that the Scottish GPDO contains just 25 Parts

**Table 5: Heriot Watt Study: Indicative recommendations for GPDO reform**

<b>Part No</b>		<b>Extend pd</b>	<b>Reduce/remove</b>	<b>No Change</b>	<b>Clarify terminology</b>	<b>Simplify language</b>	<b>Rationalise</b>
1	Dwellinghouse	<b>X</b>					
2	Minor ops	<b>X</b>	<b>X</b>		<b>X</b>		
3	C o Use			<b>X</b>			
4	Temp use				<b>X</b>		
5	Caravan sites				<b>X</b>		<b>X</b>
6	Ag buildings/ops		<b>X</b>				
7	Forestry		<b>X</b>				
8	Industrial	<b>X</b>			<b>X</b>		
9	Private roadwork		<b>X</b>		<b>X</b>		
10	Service repairs		<b>X</b>				
11	local or private Acts				<b>X</b>		
12	Dev by Las	<b>X</b>					<b>X</b>
13	Dev by SI		<b>X</b>	<b>X</b>		<b>X</b>	
14	Aviation dev		<b>X</b>				<b>X</b>
15	Minerals						<b>X</b>
16	Ancillary mining op						<b>X</b>
17	British Coal dev			<b>X</b>			
18	Mine waste tipping			<b>X</b>			
19	Mine removal						<b>X</b>
20	telecom operators		<b>X</b>	<b>X</b>		<b>X</b>	
21	Other telecoms	<b>X</b>			<b>X</b>		
22	Amusement parks			<b>X</b>			
23	Building demolition				<b>X</b>	<b>X</b>	<b>X</b>
24	Toll Road facilities			<b>X</b>			
25	CCTV cameras	<b>X</b>			<b>X</b>		

### Heriot Watt's 'Review of the General Permitted Development Order 1992: Householder Development' for the Scottish Executive

A parallel study to the main Heriot Watt review, the householder review focussed on Part 1 and 2 of the GPDO and related to householder development. It used inputs from a wide range of stakeholders to formulate recommendations for a simplified regime which would reduce planning applications whilst protecting neighbour amenities whilst at the same time making the system easier for users.

As far as this report is concerned, the key recommendation related to flats and the suggestion that they be included in the definition of dwellinghouse. This recommendation is explored in more detail in Chapter 13.

### ODPM's Householder Development Consents Review<sup>17</sup>

Established in January 2005 in ODPM's five year strategy *Sustainable Communities: Homes for All*, HDCR was part of the Government's response to the Barker Review of Housing Supply which recommended a review of permitted development rights for minor developments, particularly those relating to the large number of householder developments each year. HDCR's brief required it to recommend a more proportionate, customer-focussed consent regime for householders that would free up local authority resources while retaining necessary environmental controls.

HDCR examined options for making householder consent regimes more proportionate. It described how Local Authorities use an 'Impacts approach' in considering applications for householder development and shows how the impact of any developments can be experienced on one of four levels. HDCR developed a conceptual framework that could – in theory – be used to regulate these developments. HDCR proposed that this approach should provide the basis for simplifying Part 1 of the GPDO relating to householder development.

HDCR's impact approach was generally endorsed by Kate Barker in her review of the planning system, and provides a model for setting permitted development thresholds for other Parts of the GPDO. However, for many of these developments underlying policy considerations are less well developed. An important aspect of the study will therefore be to infer and then articulate the policy objectives that the pd limits are promoting and then to assess options for change against them.

### White Young Green's: 'Implementation of HDCR Steering Group recommendations'<sup>18</sup>

In 2006 HDCR took forward the Steering Group's recommendations by commissioning Consultants White Young Green to recommend what an impact-based GPDO would look like.

17 [www.communities.gov.uk/pub/261/HouseholderDevelopmentConsentReviewSteeringGroupReport\\_id1501261.pdf](http://www.communities.gov.uk/pub/261/HouseholderDevelopmentConsentReviewSteeringGroupReport_id1501261.pdf)

18 [http://www.communities.gov.uk/embedded\\_object.asp?id=1510661](http://www.communities.gov.uk/embedded_object.asp?id=1510661)

WYG was told that its recommendations for change to the GPDO should be underpinned by the following three principles:

- clear and robust arrangements should be in place so that the interests of neighbours and the wider community and environment are sufficiently protected
- changes to current arrangements should be based on evidence and fully tested
- there should be full consultation on detailed proposals for taking forward the Review's recommendations

White Young Green adopted what they described as a "targeted strike" on key areas of Part 1 of the present GPDO that are confusing and difficult to interpret, and which lead to planning applications being submitted which are uncontroversial and in effect merely rubber stamped. The approach involved an audit of Part 1 to assess the degree to which it met the requirements of an impact based approach and which established priority areas for change.

White Young Green used their analysis to develop a number of options for change. These options were extensively tested on a number of stakeholder groups and refined as a result of the feedback provided. This methodology led them to produce a series of recommendations of sufficient detail to provide instructions for drafting a new statutory instrument. If implemented this could lead to an estimated saving of around 26 per cent in the number of householder applications in England and Wales.

The recommendations envisage a rebalancing of permitted development rights, not just a more liberal regime. For some categories of developments, the impact approach shows the current GPDO to be too liberal and White Young Green's recommendations envisage that applications would in future be needed for some developments that do not now require them.

White Young Green's recommendations are still the subject of evaluation and it is too early to know to what extent they will be pursued. However some important lessons have emerged from the work so far that have implications for the current study:

- the benefits of targeting change to those areas where it is most required
- the value of developing and discussing options with stakeholders reflecting all shades of opinion
- the value of testing applications for their ease of use and impact on local planning authority workloads
- the sheer difficulty in many instances of developing recommendations that could meet all of the criteria in the White Young Green brief and could be applied across the board

- the need to draw out clearly all of the policy implications that proposals for change can give rise to so that an informed assessment of them can be reached
- the value of illustrating proposals in order to draw out their implications

### **The Local Government Ombudsman's Telecommunications Masts: Problems with 'Prior Approval' Applications<sup>19</sup>**

In the last ten years over 600 people have complained to the Local Government Ombudsman about issues relating to phone masts. With the number of complaints increasing to nearly 100 a year, most of these complaints concern applications for phone masts under the prior approval system, and this report examines the causes of them. The report highlights the issues that councils face in dealing with applications for phone masts under prior approval and finds a surprising number of instances where simple problems occur. The report concentrates on problems of administering the existing system and declines to comment on the adequacy of the system itself. However, in sending a copy of its report to Communities and Local Government it has alerted the Department for Communities and Local Government to the problems that arise for neighbours and concerned third parties and it invites the Department to take these problems into account in any future consideration of the legal and administrative framework such as the one that we are engaged in.

## **4.3 Conclusions from the Literature Review**

This review of recent experience highlights a number of important lessons and issues which we need to take into account in the present exercise.

The GPDO is a complex Statutory Instrument, and modernising and improving it is extremely difficult. Its complexity has caused previous reviews not to be followed through because they have been overly ambitious in seeking fundamental reform.

A targeted approach to change is more likely to achieve outcomes that are implementable. This means establishing clear sub-goals that are in line with the wider objectives that have been set for us (ie to modernise the planning system and remove unnecessary regulation) yet also able to obtain political support.

This suggests:

- selecting a less ambitious, and therefore less complex number of changes to the GPDO
- all proposals must be carefully evaluated for their impacts on all major areas of policy interest

<sup>19</sup> <http://www.lgo.org.uk/pdf/phone-masts-sr.pdf>

- targeting the most promising areas for reform. Previous studies suggest these include retail uses, waste management and offices. Unlike agriculture and telecoms these areas have not in the past benefited from 'permitted development' rights
- the studies suggest that relaxing 'permitted development' rights for agriculture are likely to prove more contentious as they will cut across other policy areas likely to raise demands for tighter control. This may cause any proposals for these areas to be more difficult to implement politically. Proposals for change in these areas will need to be underpinned by clear policy requirements. These might perhaps include the demands of climate change or flood defence
- the GPDO cannot be considered in isolation from related provisions. Prior Approvals are a particular area of concern
- in the longer run, it is necessary to continue to flag the need to consider how to create a system of permitted development rights that is more amenable to change in the future. Options for tackling this area raised by these studies include:
  - breaking the GPDO down into separate orders each one of which could be amended at its own pace.
  - improving the useability of the system and eliminating the numerous conflicts, anomalies etc.
  - reforming methods of prior approvals,
  - modernising Article 4s

## 4.4 Review of a Sample of Local Planning Authority Weekly Lists

### Purpose

A key objective of this analysis was to determine the extent to which any relaxation of permitted development rights for minor non-householder development will reduce application numbers across England and Wales. An important aspect of our study and the development of our evidence base was the analysis of weekly lists from a range of local planning authorities across England and Wales.

An analysis of weekly lists for a number of Local Authorities was therefore undertaken across England and Wales covering a range of towns, cities and rural areas to get an indication of the number of applications currently submitted for minor developments. We wanted to know the number of these applications and the proportion that were approved in order to identify any trends where those approvals occurred on a consistent basis. This information would help us both target the most promising areas for relaxation and then calculate potential savings that could entail.

## Methodology

A representative sample of 24 local planning authorities was selected:

- Aylesbury Vale
- Birmingham
- Blackpool
- Boston
- Bracknell Forest
- Brecon Beacons National Park
- Burnley
- Carlisle
- Charnwood
- Crawley
- Durham
- Exeter
- Gateshead
- Gwynedd
- Harrogate
- Ipswich
- Islington
- Lake District National Park
- Manchester
- NE Lincolnshire
- Newham
- Restormel
- Sutton
- Westminster

For each local authority, four weekly lists (two in March and two in October 2006) were examined from that authority's online register of planning applications. On the basis of the description of the development, each application was categorised into one of 10 different development types and 30 different types of use (see table 6).

Table 6: Analysis of local planning authority weekly lists												
All Selected LPA												
Total no. of applications in the weekly lists: 3929												
	New Buildings	Extensions to Buildings	Minor Alterations	Plant & Equipment	Disability Accesses	Shop Fronts	ATMs	Fences, Walls and Gates	Vehicular Accesses	Temporary Developments or Uses	Other eg new dwellings, telecom masts	TOTAL
1 Retail A1	3	3	22	2	5	30	8	1		2		76
2 Financial and Professional Services A2	1		1	3		3	4					12
3 Restaurants/Cafes A3			3	3								6
4 Pubs/Bars A4			12	1	1							14



	New Buildings	Extensions to Buildings	Minor Alterations	Plant & Equipment	Disability Accesses	Shop Fronts	ATMs	Fences, Walls and Gates	Vehicular Accesses	Temporary Developments or Uses	Other eg new dwellings, telecom masts	TOTAL
24 Utilities/Statutory Undertakers	1											1
25 Telecommunications											29	29
26 Dwellings C3											111	111
27 Extensions/Alterations to Flats											5	5
28 Waste Disposal											4	4
29 Waste Water Disposal												0
30 Other	26		1					12	1		29	69
<b>TOTAL</b>	<b>106</b>	<b>42</b>	<b>69</b>	<b>19</b>	<b>16</b>	<b>33</b>	<b>12</b>	<b>20</b>	<b>2</b>	<b>5</b>	<b>180</b>	<b>504</b>

## Analysis

The 96 analysed weekly lists produced a total of 3,929 planning applications of which 504 were minor applications, as defined by Communities and Local Government. The corresponding figures for England and Wales in 2006/7 are shown in table 7.

	Minor applications	All applications	% of minor applications
Study sample	504	3,929	12.8
England and Wales 2006/7	163,961	622,746	25.8

The proportion of minor applications in our sample is substantially lower than the proportion of minor applications nationally. Closer analysis of the figures suggests that these differences can be largely explained by the fact that many LPA weekly lists contain applications for other consents including for such things as works to protected trees, approval of reserved matters and

details, and applications for Certificates of Lawful Development, that do not appear in Communities and Local Government statistics.

### Main conclusions

The results of the analysis are shown in table 6. We drew the following conclusions from this analysis:

- minor applications are spread across a wide range of use types, making it difficult to produce a statistically significant sample size in any single category
- there are large numbers of applications for new dwellings (111), which do not provide a fertile area for extending 'permitted development' rights
- despite the Prior Approval regime for agricultural developments, significant numbers of applications for new farm buildings (27) are submitted
- of the remaining use classes, retail developments account for the largest number of minor developments (76) of which nearly half relate to façade changes such as new shop fronts, ATMs and disability accesses. This category presents itself as a prime candidate for potential new 'permitted development' rights
- office developments account for a significant number of minor applications (25) along with general industrial (22). The former category does not benefit from any 'permitted development' rights and may be suitable candidate for potential 'permitted development' rights. General industrial uses benefit from generous 'permitted development' rights at present, but there may be scope for refinements to existing rights to release additional applications from the system
- a significant number of minor applications across all use classes relate to minor alterations, plant/equipment and disability accesses, all of which offer the potential for savings in application numbers
- there are few applications by statutory undertakers and utilities making it unlikely that significant savings of applications could be made in this area

A more detailed analysis of the weekly lists is presented in the topic chapters. Each topic chapter contains an estimate of potential savings from the proposals for change put forward and these are aggregated in the final chapter on conclusions.

## 4.5 Telephone interviews with Development Control Managers

### Purpose

In order to understand the opportunities for extending permitted development rights it is necessary to look at the previous work undertaken on the subject together with an assessment of Central Government Guidance on these topics and how this is transposed into development plan policies. Furthermore, it is considered important to gather the views of peers within the Development Control service who deal with the range of non-householder minor developments on a day to day basis.

### Methodology

To compile the evidence base that was required for this study it was important to research the widest possible spectrum of informed planning opinion about minor developments and the General Permitted Development Order. An important element of our initial scoping for this project therefore involved telephone interviews with 20 local authority development control managers from England and Wales.

The authorities interviewed represented a very broad geographical range of authorities from all parts of the country and possessing a wide range of social, economic and environmental characteristics.

Each interview lasted for around half an hour or so. The questioning was free ranging with development control managers encouraged to express their responses in an unstructured way. However, questions were based around a script which is included as part of appendix 1. Responses were recorded as the interviews were in progress.

There were five broad areas of questioning:

1. Views about Development Control – General Issues
2. Views about the GPDO and the scope for relaxing parts of it – possible areas for relaxation that were identified in our examination of the weekly lists were specifically mentioned.
3. Views about Article 4 directions
4. Views about Prior Approvals
5. Follow up.

### Findings

The interviews are valuable for the quality of responses obtained rather than the statistical validity of the answers provided. Unascribed responses are listed as bullet points in appendix 1 to provide the flavour of the views that development managers have on these issues. Subsequent chapters of the report demonstrate the importance that we place on the value of these responses.

Overall, we were struck by the wide variety of opinions on most of the topics that were raised. Of course, this level of diversity may, in part, simply reflect differences in philosophies about development management. However, we felt that it also strongly reflects the widespread differences in the environment in which development managers operate. Matters that may not be a concern in one part of the country are important somewhere else. Such variety underlines the difficulties created by a single, one-size fits all, GPDO covering the entire country. Article 4 Directions or LDOs may therefore offer some significant benefits in permitting greater flexibility for local solutions.

In summary, the main points that emerged from the interviews are as follows:

### **Reform of the GPDO**

Generally speaking Development Control managers were unenthusiastic about making significant changes to the current GPDO. While they overwhelmingly acknowledge that it can be a complex document that is difficult to interpret, they believe that by exercising the powers that the regulations provide them with, they have an important role to play in protecting the environment and permitting them to make better places. In other words, they all believe the planning system in general adds value, and the GPDO is an important part of this.

If anyone were to begin again and design the system from scratch, it is unlikely that they would come up with the GPDO. However this does not detract from their general view that it does provide a system of regulation that works tolerably well and which is generally understood, at least by those who work regularly with it.

However this is not to say that there is no support for change amongst the DC managers. There is much criticism of the GPDO for its complexity. The priority for reform should be to simplify it and provide better guidance on its application. Other benefits would ensue particularly from a reduction in the number of minor householder applications which would take much unnecessary 'dross' from workloads.

There is also growing concern about the increasing emphasis on the system's processes rather than the outcomes that it produces. Legal issues and knowledgeable planning lawyers are putting DC officers under increasing pressure.

### **Organisational implications of a relaxation of controls.**

There was some difference in view as to the extent that minor developments cover their costs, however the majority of managers we interviewed felt that major applications tend to subsidise minor ones because the fees for minor applications are not sufficient.

A large reduction in the number of applications would free up some resources – particularly staff – but it is doubtful whether a sufficient number

of small applications can be removed from the system for this to make a significant difference. There is also some concern that a reduction in application numbers would impose more work on enforcement services, from which, unlike through application fees, no costs can be recovered.

### **The scope for relaxing the GPDO.**

While some managers support the principle of relaxing controls all are concerned about the practicalities of doing so. All were sceptical about getting the details of any changes right so that the system works better overall.

Development Control Managers' views about the opportunities to relax controls over specific types of development are reported in the following chapters.

### **Views about Article 4 directions**

Article 4 powers are now used quite rarely – so much so that in some authorities there is a concern that expertise in the use of Article 4 powers is being lost because they are not being used. Problems arise from the additional work involved both in making a new Article 4 declaration and in processing applications that result from them. There are also strong concerns over processing costs, which are not recovered through an application fee, and fears of compensation for loss of rights.

However, if the resource problems could be overcome, many managers, and, it is felt members, would welcome an extension of Article 4 rights as this will give more opportunity to manage the form of development in their areas.

### **Views about Prior Approvals**

There is widespread dissatisfaction with prior approvals, especially in the telecoms sector. Almost all the managers interviewed favour reintroducing full planning controls for these. For those authorities where they apply, there is more contentment in their application for agricultural buildings although managers are concerned about the lack of understanding amongst farmers of how they operate.

There is a fuller consideration of these views in chapter 6.

## **4.6 Sounding Boards**

### **Purpose**

Another opportunity to gather the views of peers and third parties with an interest in Non Householder minor developments was through the organisation of Sounding Board events that were held around the country to gather information regarding the weaknesses with the current GPDO and to identify any opportunities for change.

Four sounding board events were held around the country covering rural areas, institutions/flats, retail and town centres, and finally waste management. The findings of all the Sounding Boards can be found in appendix 3.

### Rural Areas

The rural areas sounding board was held in Gloucester and was attended by 12 delegates from a variety of backgrounds. In summary, the sounding board was a positive event with a good level of discussion. There was consensus that the current GPDO was confusing in places and appeared inconsistent and “creaking” with the many changes that had occurred in planning policy. It was considered that existing ‘permitted development’ rights for farmers were about right and that the prior approval system, whilst causing confusion when first introduced, has now bedded in and farmers typically know where they stand with it. The consensus was that this should not change.

A number of areas were identified as having an opportunity for increased ‘permitted development’ rights including equestrianism and re-use of rural buildings. The issue of waste was briefly discussed but was covered in more detail in the waste sounding board. Polytunnels were debated for some time and this issue is clearly sensitive within the rural community, however this was more a technical issue as to whether they constitute development or not. It was considered this issue was outside of the scope of the study.

### Institutions and Flats

The sounding board for institutions/flats was held in Birmingham and this was attended by 9 delegates again from a variety of backgrounds. This sounding board was in two parts, the first part on institutions, the second on flats. The institutions section raised a number of important considerations regarding the sensitivities of those living around institutions and the conflict this often has with the needs of the institution. One of the most sensitive issues being the increase in traffic associated with the use, which was a particular concern regarding schools and hospitals where traffic levels are already considered by residents to impact on their amenities. In contrast to this it was considered that institutions were often put through a great deal of work for very minor extensions or infilling of small sites. Another approach considered during the sounding board was the use of LDOs for institutions to set out long term development plans for sites, which there was some concern as to whether this was a suitable solution given the needs of institutions will change over time.

With regard to flats there was concern about giving flats ‘permitted development’ rights or allowing the conversion of existing houses into flats. The principal concerns were that conversion of houses to flats would erode the character of the area and result in traffic and amenity implications. Likewise, concern was raised with allowing purpose built flats to extend or erect outbuildings as this would compromise the amenity space associated with these flats and could compromise the design quality of the flats. It was considered the only opportunity for permitted development rights could be

the erection of outbuildings associated with flats converted from an original house.

### **Retail and Town Centres**

The sounding board for retail uses was held in London and was attended by 18 delegates. It explored a number of issues including changes of use, extensions, street furniture, and prior approvals. There was concern regarding the expansion of the prior approval system due to the existing and perceived problems with its current operation. This issue is dealt with in further detail in the following chapters. With regard to street furniture there seemed to be support for tightening controls given the current concerns with clutter and unnecessary and inappropriate positioning. There was some support for retail extensions however this was caveated with concern that it could result in oversize units and whether it should allow an increase in retail floor space. The issue of plant for retail uses was also discussed along with disabled access ramps and there appeared to be mixed views on both these issues given concerns regarding amenity and impact on the character and appearance of the street scene.

### **Waste Management**

The sounding board for waste management was held in Winchester and was attended by 26 delegates. A number of waste areas were covered including small-scale waste management sites, temporary uses and agricultural waste. The issues were fully explored during this sounding board and there was a very mixed opinion, with some conflicts emerging between the preservation of the countryside and waste management uses where these are located in rural areas. However, there appeared some agreement to small scale development being 'permitted development' on existing sites where it does not materially change the operation of the site. There were a number of points raised regarding the different standards of operators and that this would cause a problem with revised 'permitted development' rights and how these would be utilised. Furthermore there was a reluctance to extend permitted development rights without the introduction of a prior approval system. This seemed to receive support from both operators and third parties. A number of suggestions were also raised for agricultural waste hubs which are explored in further detail in the waste management chapter.

## **4.7 Other Representations Received.**

To supplement the evidence that we obtained from the other sources described in this chapter we sought to publicise our review as widely as possible. Planning Magazine published an account of our project which elicited about 10 responses. Our attempts to widen this further by using other trade journals were unsuccessful but we managed to make contact with a number of other stakeholders by contacting trade and professional organisations. Where requested we agreed to meet groups which wished to present their comments and to discuss them with us in person.

Summaries of the submissions that were made to us are included as appendix 2. References to these comments where they are relevant are made in the topic specific chapters.

## 4.8 English National Planning Policy and Guidance

In trying to devise a revised GPDO it is important to understand central Government guidance and the general policy approach to minor non householder developments. Planning Policy in England and Wales is plan led with central Government providing guidance in the form of PPG's (Planning Policy Guidance) and PPS's (Planning Policy Statements), and this guidance is fed down and incorporated into local planning policies within adopted Local Plans or LDFs at district level. In Wales the system is different.

It is important to understand the principle guidance contained within these PPG's and PPS's and below is a brief overview of the most relevant national guidance.

### PPS 1: Delivering Sustainable Development

PPS 1 sets out the overarching planning policies on sustainable development through the planning system. The key principles set out in PPS1 seek to ensure that sustainable development is integrated with the UK strategy for sustainable development and that development plans promote development in which environmental, economic and social objectives are achieved. PPS1 also promotes development of high quality inclusive design, which will last for the lifetime of the development, with the design taking the opportunity to improve the character and appearance of the area. Development, which does not achieve this, should not be accepted. The formulation of development plans should also involve the community, as this is essential to delivering sustainable communities. PPS 1 seeks to protect and enhance the environment with high level protection given to the most valuable landscapes and townscapes, however it is also committed to promoting a strong, stable and productive economy for all. As such, PPS 1 supports sustainable economic development in both built up areas and rural areas and acknowledges that economic development can help deliver environmental and social benefits.

### PPG 4: Industrial and Commercial Development and Small Firms

This PPG takes a positive approach to the location of new business development and assisting small firms through the planning system. The key objective is that economic growth and a high-quality environment are pursued together. The advice covers mixed uses, conservation and heritage, re-use of urban land and other matters.

A new PPS, now the subject of consultation, is due to replace the PPG. The consultation draft considers planning's role in influencing the drivers of productivity, and facilitating employment growth. It emphasises how the planning system affects investment by providing certainty of land use and improvements in infrastructure and when firms and individuals are sure of the future use of

their own and surrounding land then they are more likely to commit to investment.

### PPS 6: Planning for Town Centres

PPS 6 sets out the Government's objectives for town centres, which includes the promotion of their vitality and viability, enhancing customer choice, which meets the needs of the entire community, supporting efficient and competitive markets whilst improving productivity and ensuring existing and proposed development will be easily accessible. PPS 6 also cuts across several of the wider Government objectives such as social inclusion, regeneration in deprived areas, promotion of sustainable development patterns, and the promotion of economic growth.

### PPS 7: Sustainable Development in Rural Areas

PPS 7 details the Government's principle policies and objectives for rural areas which include sustainable, social and economic factors. The objectives seek to raise the quality of life and the environment in the rural areas by providing thriving and inclusive sustainable communities and by promoting sustainable economic growth, whilst providing continued protection of the open countryside. PPS 7 also seeks to promote more sustainable patterns of development by focusing new development in or next to existing towns and villages and providing a range of uses to maximise the benefits of the countryside fringing urban areas. The PPS also sets out to promote sustainable, diverse and adaptable agricultural sectors where farming achieves high environmental standards, minimises its impact on natural resources, and contributes to the rural economy. It also seeks to promote diverse thriving rural enterprises that provide a range of jobs and underpins strong economies.

### PPS 9: Biodiversity and Geological Conservation

PPS 9 sets out the Government's vision for conserving and enhancing biodiversity. It sets out that planning and development should have minimal impacts on bio-diversity and enhance it where possible. The Government's objectives seek to promote sustainable development by ensuring biological and geological diversity are conserved and enhanced as part social, environmental and economic development. PPS 9 also seeks to improve rural renewal and urban renaissance by encouraging and ensuring developments take account of the role biodiversity in supporting economic diversification.

### PPG 13: Transport

PPG 13 sets out 3 objectives for land use and transport planning, these are to:

- promote more sustainable transport choices for both people and for moving freight
- promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling; and
- reduce the need to travel, especially by car

These aims reflect the Government's commitment to sustainable development.

### **PPG 15: Planning and the Historic Environment**

This PPG sets out that it is fundamental to the Government's policies for environmental stewardship that there should be effective protection for all aspects of the historic environment. The Government state that conservation and sustainable economic growth are complementary objectives and should not generally be seen as in opposition to one another. Most historic buildings can still be put to good economic use in, for example, commercial or residential occupation. They are a valuable material resource and can contribute to the prosperity of the economy, provided that they are properly maintained. The protection of the historic environment is paramount to the principles of sustainable development and the Government sets out its commitment to protect this resource but also its commitment to appropriate re-use and development which will benefit the historic environment and in turn result in economic prosperity.

### **PPG 17: Planning for open space, sport and recreation**

This PPG states the importance of open space and recreational land to delivering broader Government objectives such as urban renaissance, rural renewal, community cohesion and health and well being. It sets out the protection that should be given to playing fields and that farm diversification schemes involving sports and recreational activities should be supported. It also states that protection should be given to more sensitive areas such as AONBs although recreational and sport activities in these areas should be supported where they contribute to the overall objective of conservation of the natural beauty of the landscape. It also sets out objectives for development with open spaces and planning for new open spaces and sporting/recreational facilities.

### **PPG 24: Planning and Noise**

This PPG outlines the key consideration to be taken into account in determining planning applications for both noise sensitive developments and for operations that will result in noise. It also sets out noise exposure categories for residential development and seeks to separate noise sensitive developments from major sources of noise. It set out that development should not cause an unacceptable level of disturbance.

### **Good Practice Guide on Planning for Tourism**

The Guide has replaced PPG21. It identifies the importance of tourism in generating significant revenues, providing jobs, supporting communities and helping to maintain national assets. By taking a pro-active role in facilitating and promoting good quality development, planning is crucial to ensuring the tourism industry can develop and thrive, thereby maximising tourism's valuable economic, social and environmental benefits in a sustainable manner.

## 4.9 Planning Policy and Technical Advice Notes for Wales

Planning Policy Wales (PPW), was published in March 2002 and sets out the land use planning policies of the Welsh Assembly Government. This is supported by Technical Advice Notes (TANs) for various topic areas, there are 21 TANs in total. Further procedural advice is provided in the National Assembly for Wales/Welsh Office Circulars. Whilst PPW and TANs provide similar advice to the PPGs and PPSs in England there are some notable differences within the documents.

Planning Policy Wales the Technical Advice Notes and the circulars together comprise the national planning policy which should be taken into account by local planning authorities in Wales in the preparation of unitary development plans (UDPs). These have the same degree of weight in planning applications and decisions as PPGs and PPSs in England.

PPW covers a range of issues and provides guidance on sustainability, human rights, equal opportunities and community involvement in the planning process. It also provides guidance on other strategic issues including Europe and spatial planning. The document addresses sustainable settlements, the location of new development, the commitment to the re-use of land and promoting sustainability through good design and provides significant guidance on biodiversity. PPW also provides clear policies on the rural economy, and in particular encourages farm and rural diversification, with a new policy allowing new economic development within farm complexes. The document also contains advice and guidance on accessibility and the reduction in the need to travel, and promotes high quality design, mixed use developments, and the need for development plan policies to reflect the hierarchy of designated sites.

The following is a brief summary of the TANs that are relevant to this study:

### **TAN 4 – Retailing and Town Centres – 1996**

This TAN provides background on planning matters which could affect the vitality and viability of town centres. Major retail development applications are recommended to provide an impact assessment, adopting a broad approach which may include effects beyond the local planning authority boundaries. The importance of changes of use, car parking standards and management are emphasised.

### **TAN 5 – Nature Conservation and Planning – 1996**

This provides advice on development control issues for Special Protection Areas (SPAs), Special Areas of Conservation (SACs), and Sites of Special Scientific Interest (SSSIs). It also provides advice on the selection and designation of non-statutory nature conservation sites, such as local nature reserves, and the protection of species, commons and greens.

### TAN 6 – Agricultural and Rural Development – 2000

TAN 6 advises on the agricultural considerations a local planning authority should take into account when preparing development plans and considering planning applications. These include agricultural land quality, location of development in relation to farms, farm sizes and the condition of farm buildings. Re-use of rural buildings is considered against a number of criteria and development related to farm diversification is given special attention. This TAN also provides advice on development involving horses.

### TAN 11 – Noise – 1997

Advice is provided on how the planning system should be used to minimise the impact of noise generated by development in order to protect the environment. This is set out within the framework of not placing unreasonable restrictions on development or businesses.

It sets out the main considerations that should be taken into account in drawing up development plan policies and determining planning applications for development, which will either generate noise or be exposed to existing noise sources. It also sets out noise policies, conditions and planning obligations. Development control issues relating to noise generating development and noise sensitive development, as well as measures to mitigate the impact of noise are also considered within the TAN.

Annexes provide specific advice on noise exposure categories for dwellings, assessment of noise from differing sources, examples of planning conditions, specifying noise limits and information on other noise control regimes, statutory instruments and British Standards.

### TAN 12 – Design – 2002

This TAN focuses on the appearance of proposed development and its relationship to its surroundings. It takes design to mean the relationships between all elements of the built and natural environment, including those between buildings and between buildings and spaces. Advice is given regarding access for disabled people in new and existing buildings, in links between buildings, in pedestrian zones and in historic buildings.

### TAN 13 – Tourism – 1997

This TAN sets out that, although tourism cannot be regarded as a single or distinct land-use category, the issues it raises should be addressed in preparing or revising development plans and in development control decisions. Advice is also provided regarding the enhancement of the stock of hotels and the provision of appropriate sites and facilities for holiday and touring caravans.

### TAN 15 – Development and Flood Risk – 2004

TAN 15 sets out the Environment Agency's (EA) role in exercising general supervision of flood defence matters and that local authorities should guide development away from areas that may be affected by flooding, and to restrict development that would itself increase the risk of flooding or would

interfere in the ability of the EA or other bodies to carry out flood control works or maintenance.

It states that flood risk considerations should always be taken into account by local planning authorities in preparing development plans and in determining planning applications. Guidance is given on flooding as a material consideration in development control decisions, runoff and increasing the risk of flooding on or off site, coastal protection works and flood defence works.

### **TAN 16 – Sport and Recreation – 1998**

This TAN outlines the responsibilities of the Sports Council for Wales, the Countryside Council for Wales and the Environment Agency in relation to sport and recreation planning, and notes in particular the need for planning authorities to consider the relationship between the recreational use of land and the interests of conservation.

The advice does not prescribe national standards for recreational provision but it sets out the value of open space for the purpose, whether in local authority ownership or not. It also provides technical advice regarding the provision of sites and facilities and the particular issues of noise from sport and of floodlit facilities.

### **TAN 18 Transport – 2007**

TAN 18 contains advice on the integration of land use planning and transport issues and the importance of the location of development. Advice regarding the design of development and appropriate parking is also provided.

The TAN also provides advice on alternative modes of transport, walking, cycling and public transport.

### **TAN 21 Waste – 2001**

TAN 21 is intended to facilitate the introduction of a comprehensive, integrated and sustainable land use planning framework for waste management in Wales.

The advice highlights the role of the planning system in providing adequate facilities for reuse, recovery and disposal of waste which minimises adverse environmental impact and avoids risk to human health. There are details of key UK legislation and EU directives, and the principles and techniques of waste management. There are proposals for regional waste co-ordination resulting in the production of Regional Waste Plans that will meet the requirements of the EU Directives on waste.

## 4.10 Development Plan Policies

### Purpose

Development plan polices were analysed for trends that consistently support types of minor non household development. Where trends could be identified these might provide a basis for designating them as permitted developments. The local authorities assessed were the same as those chosen for the weekly list analysis. Typically, policies were found across the country covering the following issues:

- shop fronts
- retail
- access for all
- extension/redevelopment of existing employment sites
- change of use of rural buildings
- equestrianism
- tourism
- extensions to institutions

Naturally, there is a great amount of variety in the wording of policies across the country. These policies principally fall into one of two categories; positively worded policies and restrictive policies. The different issues are explored in more detail below.

### Retail

Policies regarding extensions to retail premises are typically restrictive and try to limit the additional floor space provided to ensure any extension is a modest addition which is ancillary to the main retail use. The policies are also concerned with the scale and appearance of the extension. The policies, on the whole, will support modest additions to a retail premises provided it does not extend the retail sales area, it not impacting on the character of the street scene and the design of the proposal being sympathetic to the existing building.

### Shop Fronts

On the whole policies seek to allow the replacement of shop fronts subject to their respecting or improving the shop frontage and street scene. The key issue identified in polices are the design, appearance and materials used, together with accessibility. It is considered, however, that these requirements are likely to change nationally due to the varied shopping frontages across England and Wales and as such being impossible to set a national standard.

There is concern regarding the introduction of roller shutters and security grilles and the impact this has on street scenes and safety.

### **Access for all**

A number of local plans now have policies that address access for all. On the whole these policies are positive for the provision of access for all but are somewhat restrictive on how this should be achieved. The main areas of concern highlighted in the policies are the impact of any ramp system on the street scene and the impact this could have on pedestrian flows or the appearance of the building. The other main concern is the impact of the proposal on the fabric of the building and façade of the building. Therefore, whilst the policies are typically supportive there is a particular requirement for care to be taken in how this is achieved.

### **Extension/redevelopment of existing employment sites**

These policies are typically supportive of extensions and redevelopment subject to the scale of the proposal and the retention of the employment use. The policies typically will allow the expansion of employment sites within the built up area subject to the normal material considerations of scale, size, appearance, impact on neighbours and traffic/noise generation. The policies are slightly more restrictive in rural areas, whereby only modest expansion within the existing site would be supported; this tolerance is further reduced in sensitive areas.

### **Change of use of rural buildings**

Overall policies within development plans are supportive of the principal of re-use of rural buildings, with policies supporting a combination of B1, B8 and in some instances tourist accommodation. The policies set out that the building should be convertible without any significant works being required, that new openings should be kept to a minimum and there should no impact on the amenities of the surroundings. The policies are generally positively worded that encourages appropriate re-use.

### **Equestrianism**

Specific equestrianism policies are becoming more and more prevalent in Development Plans and on the whole will support development subject to the development having no detrimental impact on the character of the area. In particular the policies look to protect the open character of the site and to limit the subdivision of the site. The policies also look to limit the building requirements on the site.

### **Tourism**

This is another policy area where on the whole the extension and redevelopment of existing tourist sites is supported. The policies are positively worded but seek to protect the areas which make tourists want to visit the locality. The protection given to rural areas is more significant than areas within built up areas. The provision of new tourist facilities in the countryside is on a whole supported if the site is sustainable and is through

the re-use of existing buildings although the erection of purpose built tourist accommodation is more often than not restricted.

### **Extensions to Institutions**

This covers a range of topics from schools to day nurseries and on the whole there are often separate policies for different institutional uses. However, on the whole the development plan policies are supportive of the extension to existing facilities. This unsurprisingly is caveated with the proposal having no impact on amenities, the character and appearance of the area, traffic implications or other material considerations. Traffic is generally one of the most sensitive considerations when it comes to extending schools, day nurseries, hospitals or health centres.

# 5 The GPDO and Related Regulations

## 5.1 Introduction

The General Permitted Development Order is one of the most fundamental references for our planning system. Most people who manage or develop property consult it regularly and it is constantly evolving in response to changing planning needs and priorities. Yet in its appearance, operation and user-friendliness it arguably belongs to a bygone age.

We have found in this review that even where they disagree with some of its detail, most of those who work with the GPDO understand that its provisions, in most cases, have a rationale that they understand. The strongest and most persistent criticisms that have been made to us relate to the Order as a whole which can be very hard to understand. Its antiquated form is ill-suited to the needs of a planning system fit for the 21st century.

While not strictly part of our brief we think it necessary to make some general comments about the way the GPDO presents itself, and how it might be made more responsive to the increasing demands that are made of it. Most of these comments fall under such headings as 'cosmetic', 'housekeeping' or 'maintenance', but for a Statutory Instrument that plays such a critical planning role and for one that is evolving as fast as the GPDO is, they should be considered to be high priorities for reform. For obvious reasons, sprucing up an aging Statutory Instrument may not be high on many lists of priorities, but we believe many benefits would be achieved by reforming this area of the regulations.

This chapter looks at related legislation with strong ties to the GPDO. These are Local Development Orders and Article 4 regulations. How well do they support the objectives behind this review? The following chapter examines a third area – that of Prior Approval – in much greater detail as we believe this is an area where there is the most immediate scope for reform.

## 5.2 Modernising the GPDO as a Whole

### Views about the system:

Most people who comment on the GPDO complain about its sheer complexity and the difficulty they have of interpreting it. The Lichfield, HDCR Steering Group and Heriot Watt reports all remark on the GPDO's convoluted legal language, its length, the lack of guidance on how it should be interpreted, internal inconsistencies and the inter-relatedness and overlap of many of its parts with other legislation.

The Lichfield Review proposes simplifying the Order by deleting its redundant parts – Part 26 (Development by the Historic Buildings and Monuments Commission for England), Part 30 (Toll road facilities) and perhaps Part 20 (Coal mining development by the Coal Authority and licensed operators).

The HDCR Steering Group report calls for a new Permitted Development Order designed to meet the needs of Householders. Explanatory guidance in plain English should accompany it. A separate Householder Permitted Development Order should be created, designed to ensure clarity, simplicity and consistency and it should be readily updateable so that its provisions remain relevant to new technologies and changing life styles.

The Heriot Watt Study in Scotland provides the most comprehensive statement of the problems with the system. It invited suggestions for general improvements to the format and presentation of the Order and the responses they received included:

- electronic/loose leaf format, easily updated.
- clear use of diagrams, sections and layouts
- too many classes, not easily integrated
- need for simplification and consolidation
- need for a communications plan, so that all interests understand the GPDO
- an expert panel to annually review GPDO so that it maintains its currency

Heriot Watt made two broad suggestions to make the GPDO easier to use:

1. To resolve the inherent tension between the need for legal rigour and user-friendliness, user-friendly versions of the GPDO should be produced in electronic and hard copy formats, and the legally robust form of the GPDO would be derived from these, rather than vice-versa. There may be scope to model a web-based version on how the Building Standards Agency, through its website, articulates the requirements of the Building Standards regime.
2. A redrafted GPDO should have flagged sections where the reader would be referred to another Part/Class (but should otherwise be kept to the minimum), or to related legislation (such as the Habitats Directive, or the Environmental Impact Assessment Regulations).

### **Priority issues:**

To improve the efficiency and the public perception of the planning system, we think that it has become a high priority to reform the fundamental concept of the GPDO. It needs to be made easier to update and be more customer-focused. As the Welsh Federation of Small Businesses succinctly suggests:

*“Surely there should be clear guidelines as to what is and what is not permitted so that business can get on and make money”.*

As perhaps the most regularly referred to piece of planning legislation, the GPDO requires regular updating to reflect changing circumstances, policies and priorities. In the past this was what happened. Figure 3 in chapter 2 shows the history of General Developments Orders, since the first one was introduced in 1948. It highlights how the Order was reissued on a comprehensive basis generally every 12 to 15 years. The last full revision occurred in 1995 when the current order came into effect. Since 1995, while there have been numerous amendments to the Order, there has been no full reissue. The comprehensive review by Lichfield in 2004 was no doubt designed to lead to the next full revision but it was not pursued to the point that its recommendations produced legislative change, while our own study was established to target priority areas rather than lead to any full revision of the Order as a whole.

It is something of a paradox of the system that to make it more deregulatory means increasing the amount of legislation that surrounds it. Successive deregulatory amendments therefore increase its size and its levels of complexity and increased the need for expert understanding of its provisions. This creates real difficulties for users whether they are developers or LPAs.

Figure 3 illustrates this point. The first revision to the General Development Order occurred in 1950 when it was hailed as an experiment in freedom. Since then, using the number of its parts as an indicator, there has been a steady growth in development that is permitted. But since 1995 a clear change in practice has become discernible. New parts are now added incrementally rather than as part of a comprehensive review. This suggests that a point may have been reached whereby the GPDO now contains so much legislation covering such a wide range of developments that it has become unrealistic to view it or to manage it as a single pieces of legislation. Might it be broken down into more manageable portions – similar perhaps to the Building Regulations?

All of the issues and the related proposals from the Lichfield, HDCR and Heriot Watt reviews described above seem to us to be highly relevant and merit serious further discussion. In addition, there are some further issues that we would flag that warrant consideration:

1. The GPDO is nowhere available in its entirety as a single document, either web based or in paper copy. It was last updated as a whole in 1995, but since that time various piecemeal amendments have been made and are published only as one-off amendments to the Statutory Instrument – commonly just as fragments of a sentence or a clause. As a result it is difficult to be at all confident what the current regulations are. It is a particular challenge to find Parts 34 to 38, even using web-based search tools like Google.
2. There is an ongoing need for guidance on interpretation of the GPDO in response to changing technologies and practices. The 2006 Climate

Change and Sustainable Energy Act and the 2007 letter from Communities and Local Government's Chief Planning Officer<sup>20</sup> explaining the Government's views about the permitted development status of polytunnels both highlight how even such a carefully drafted legal document as the GPDO requires constant interpretation to reflect changing circumstances. Regular updates of interpretation are provided in Sweet and Maxwell's *Encyclopedia of Planning Law and Practice*, but this is not accessible to everyone and its size, its arcane indexing and its legal language make it an extremely intimidating resource for occasional users.

3. There are significant areas of the GPDO that are now redundant and these need to be removed from the Order. In addition to whole Parts identified by Lichfield, some individual classes also appear out of date. For example Class D of Part 8 (Industrial and Warehouse development) permits *"the deposit of waste material resulting from an industrial process on any land comprised in a site which was used for that purpose on 1st July 1948 whether or not the superficial area or the height of the deposit is extended as a result."* We have had no opportunity to establish whether this Class continues to be invoked, but common sense and current waste management regulation suggests that its time has passed. If so it should be deleted from the Statutory Instrument.

### Recommendations

We do not suppose that reformulating the GPDO will appear at the top of most lists of priorities for improving the planning system, but the system needs to be easier to amend and it should be made more accessible to its users.

The ever-increasing demands on the planning system mean that reforming the GPDO as a whole will become a necessity at some point in the future. If not it will at some point become so large that it will become simply unmanageable. Further piecemeal additions and amendments are inevitable and the more that are made to the Order in its present unstructured format, the more difficult and more risky the eventual unavoidable task of reforming it will become.

Recommendations for reformulating the GPDO were beyond our immediate terms of reference. We have not therefore had an opportunity to develop options for doing so systematically, let alone of testing them. However, we think it is important to highlight some key suggestions.

We strongly recommend that an agenda for modernising the GPDO be drawn up. This should be based on:

1. Heriot Watt's recommendations for formatting and presenting the Order in Scotland which we think are worth pursuing in England and Wales. We summarise the key ones:

<sup>20</sup> <http://www.communities.gov.uk/documents/planningandbuilding/pdf/Polytunnels>

- there should be a website for the GPDO, enabling easy access to an updated and consolidated Permitted Development Order, and with hypertext links to relevant parts of guidance and advice
- there should be an “easy read” user-friendly summary version of the Order, both to accompany the full definitive version and for wider distribution
- government should issue comprehensive advice in regard to the relationship between the various statutes, advice and circulars covering permitted development
- the electronic version of the GPDO should be accompanied by decision trees assisting users to establish whether their proposal is permitted development

Some related initiatives should also be considered as part of this package. These should include:

- adapting the Planning Portal’s highly successful on-line interactive householder guide<sup>21</sup> to other forms of development, and reviewing current Communities and Local Government guidance on the planning system for other users such as farmers and businesses
- taking on board the POS proposal that every time there is an amendment to the existing GPDO the whole document should be reissued so that users can be confident what the current regulations are

2. Redundant parts of the Order should be removed as recommended by the Lichfield Review. These include Parts 26 and 30, and perhaps Part 20. Redundant classes within remaining parts of the order should also be identified and deleted.

3. Recasting the GPDO from its present format. The GPDO’s parts should more closely relate to the major uses as set down in the Use Class Order and to Government Policies set out for them in relevant PPSs.

Thus, as well as a new Householder Permitted Development Order proposed under HDCR, which was well supported in public consultation and which the Government has indicated it will examine further, other individual Parts of the GPDO could be published as separate Orders to cover the following broad areas:

- Town Centre and Retail Uses (relating to Class A of the Use Classes Order)
- Business and Commercial Uses (relating to Class B of the Use Classes Order)

21 <http://www.planningportal.gov.uk/uploads/hhg/houseguide.html>

- Institutions and Places of Assembly (relating to Class C1, C2 and D1 and D2 of the Use Classes Order)
- Rural and Agricultural Uses
- Infrastructure providers
- Mineral extraction and waste management

Each Order would be separate and self-contained, so that it could be updated and republished independently of other categories of minor development. This would overcome the current problems that arise when amendments are made to the existing order.

Each Order would be accompanied by guidance to support understanding and disseminate best practice. The guidance should be available on the web and be regularly updated with evolving case law over legal interpretation and the outcome of any relevant decisions by the Planning Inspectorate.

Some of these recommendations ought to be relatively easy to implement. For example, we see no great difficulty in consolidating the existing GPDO and making sure an up-to-date version is available in one place such as on the Planning Portal.

Implementation of all of many other of these recommendations would however require a sustained effort involving Government lawyers, web-designers, probably the Planning Portal as well as planners. It will also demand some level of resourcing but we think that an assessment of the costs and benefits of the exercise would prove strongly positive.

### 5.3 Local Development Orders

Introduced in the 2004 Act, Local Development Orders (LDOs) permit local planning authorities to grant planning permission for a specified type of development and hence remove the need to apply for planning permission. It was intended that LDOs would give LPAs a tool to reduce the number of minor planning applications in their areas. In their objectives, LDOs are very closely aligned to the objectives of this review.

Two types of LDO were envisaged in the Act; the first would extend permitted development rights across an entire district for minor developments such as householder developments; the second would encourage a certain type of development in a specific area. The Act suggested that LDOs could be linked to design codes in order to achieve high quality development.

During the course of our review we have not identified any examples where planning authorities have used their new powers to declare any LDOs and it is difficult therefore to comment on their value. However, Hampshire County

Council has investigated their application for waste management purposes, and its Minerals and Waste Core Strategy carries a policy to use them for such developments as:

- extensions to buildings used for waste management purposes
- ancillary developments (such as installation of boreholes, landfill gas controls, weighbridges etc.) at existing waste management facilities
- the import, export, processing, storage and sale of primary and secondary aggregate at existing minerals and waste sites
- the import, export, storage and processing of agricultural wastes at agricultural premises, to facilitate recycling

Hampshire County Council explains that the use of LDOs for minor and incidental minerals and waste development could help to meet the objectives of this Strategy and help to reduce the administrative burden of the planning system. However there are likely to remain a number of obstacles to their successful application, especially with regard to developing expertise in the use of the new powers and the willingness of a planning authority to relinquish their existing regulatory powers.

As we discuss below in the Chapter on Institutions, we believe there may be scope to apply LDO legislation to development by large scale institutions in developing their own campus, but again their likelihood of doing so is severely hamstrung by the lack of familiarity with the way LDOs operate. It appears to us that the potential of LDOs may never be fully realised without further encouragement from Communities and Local Government.

### **Recommendation**

That planning authorities be encouraged to investigate adopting Local Development Orders where the development plan envisages a new or expanded university or hospital within their district.

To demonstrate the potential that we believe LDOs offer for freeing up the planning system, Government should consider funding a number of pilot Local Development Orders where the various stakeholders are in agreement about taking such an approach.

## **5.4 Article 4 Directions**

Article 4 directions are issued by local planning authorities to remove permitted development rights. Although not restricted to these areas, they have been most regularly applied to add extra protection for conservation areas or to protect the setting of listed buildings.

Use of Article 4 directions seems to have declined quite strongly in recent years. The Lichfield Review ascribes this to a concern amongst LPAs about

their liability to compensate owners whose development rights are removed. Our own survey of development control managers suggests contributory causes may be the lack of expertise within LPAs about how they work, and to the costs and uncertainties that arise from the need to obtain the Secretary of State's approval.

In responding to the consultation on Householder developments<sup>22</sup>, Government has indicated its intention to encourage local planning authorities to have more flexibility to assess what is most appropriate for their own locality in this area. To this end the current Planning Bill contains provisions to amend existing compensation arrangements when permitted development rights are restricted, and to relax the need for the Secretary of State's consent for Article 4 directions.

Reducing the barriers to the declaration of Article 4 directions will provide LPAs with much greater scope to fine tune developments within their areas, and this will undoubtedly assist in the place – making opportunities available to them. On the other hand, tensions will remain between this objective and the concerns of developers for policy consistency across the country and for less regulation generally. How this tension is to be managed in practice will depend on the way that the new arrangements are fine tuned. To what extent will Government actively encourage LPAs to declare new Article 4 directions? Consideration also needs to be paid to the capacity within LPAs to implement the new arrangements.

### **Recommendation**

Communities and Local Government should prepare guidance to clarify the potential and the limitations for the new Article 4 arrangements to permit LPAs to restrict permitted development rights in their areas.

To address the lack of know-how within LPAs, some pilot Article 4s should be prepared to demonstrate the use of the new provisions.

22 <http://www.communities.gov.uk/documents/planningandbuilding/pdf/323459>

# 6 Prior Approvals

## 6.1 Introduction

As part of this assignment we have been requested to review the operation of the system of Prior Approvals or Prior Notification<sup>23</sup> as a halfway house to seeking full planning permission. Specifically we have been asked to consider:

- its effectiveness as currently operated in controlling larger scale permitted development compared with resourcing requirements for the local planning authority, and times taken to gain development consent when required
- any amendments needed to make prior approval a more effective tool; and
- what types of permitted development might be subject to prior approval, for example, siting, design or appearance, and what aspects of the development should be subject to approval

The Steering Group has confirmed that the final report of this assignment should detail the arguments for and against the prior approvals regime and suggest options for how it might be adapted to accommodate an extension of PD rights. Where it would not be possible to grant full permitted development rights for some relatively minor developments, might an extension or adaptation of the prior approval system provide a means of reducing red tape in line with the Government's drive to lift the burdens on business?

We understand that a number of other studies currently being undertaken by Communities and Local Government are also looking at this question. These include:

- a consultation on proposed changes to pd rights for dwellinghouses
- an on-going review of Review of pd rights for telecommunications
- a review of pd rights for non-domestic microgeneration

Related work is also on-going in Wales

<sup>23</sup> Through they refer to different stages of the same process (see next page) the two terms tend to be applied quite interchangeably. In this report we use Prior Approval unless otherwise indicated

### A note on data availability

Within the boundaries of our study we have sought to establish an evidence base about the system on which to base an evaluation of it. We have sought to estimate the number of Prior Approvals with which local planning authorities deal, to evaluate their fee levels and to learn to what extent they meet the costs of processing them. However, systematic records of the numbers and operation of prior approval notifications are not currently kept. A few LPAs refer to them on their online weekly lists, but most do not. We asked in our telephone interviews with DC managers for estimates of the numbers of notifications they receive each year. The range of their response – between nine and 300 – did not correlate well with the numbers of planning applications they deal with.

Further work may be required to clarify the picture should any changes be envisaged.

## 6.2 What is the Prior Approval System?

Public understanding of the prior approval system is unsatisfactory compared with that for the full planning application process. The two terms that are applied to it, apparently interchangeably ‘prior notification’ and ‘prior approval’ – is the first problem. In its very helpful glossary of planning terms the Planning Portal carries no information about Prior Notification but it describes Prior Approval as:

*“A procedure where permission is deemed granted if the local planning authority does not respond to the developer’s application within a certain time. Often relating to telecommunication or agricultural developments.”<sup>24</sup>*

In contrast Communities and Local Government’s recently published<sup>25</sup> Best Practice Guidance on the Validation of Planning Applications explains the requirements for a Prior Notification application but offers no advice on Prior Approvals.

In fact the two terms describe different aspects of the same procedure provided for under Sections 59 and 60 of the Town and Country Planning Act 1990 as described in box 1:

24 <http://www.planningportal.gov.uk/england/professionals/en/1115310689486.html>  
25 [www.communities.gov.uk/documents/planningandbuilding/pdf/validation-planning](http://www.communities.gov.uk/documents/planningandbuilding/pdf/validation-planning)

## Figure 6: Development orders

### 59 Development orders: general

- (1) The Secretary of State shall by order (in this Act referred to as a “development order”) provide for the granting of planning permission.
- (2) A development order may either –
  - (a) itself grant planning permission for development specified in the order or for development of any class specified; or
  - (b) in respect of development for which planning permission is not granted by the order itself, provide for the granting of planning permission by the local planning authority (or, in the cases provided in the following provisions, by the Secretary of State) on application to the authority in accordance with the provisions of the order.
- (3) A development order may be made either –
  - (a) as a general order applicable, except so far as the order otherwise provides, to all land, or
  - (b) as a special order applicable only to such land or descriptions of land as may be specified in the order.

### 60 Permission granted by development order

- (1) Planning permission granted by a development order may be granted either unconditionally or subject to such conditions or limitations as may be specified in the order.
- (2) Without prejudice to the generality of subsection (1), where planning permission is granted by a development order for the erection, extension or alteration of any buildings, the order may require the approval of the local planning authority to be obtained with respect to the design or external appearance of the buildings.

The very fact that it goes under two names indicates confusion in the interpretation of the Act. The explanation for this is that the two names are an attempt to reflect the two-stage nature of the process as was originally envisaged for minor agricultural/forestry works:

- Prior Notification is initially given to the LPA of the intention to erect a new building
- Prior Approval is required from the LPA of any further details which it elects to seek from the applicant

The key requirements for a Prior Approval process, as laid down under Section 60(2), include the following:

- Prior Approvals relate to the erection, alteration or extension of buildings
- local authority approval may be required for development details

- design and external appearance may be considered
- no specific title such as 'Prior Approval' or 'Prior Notification' is stipulated

At present the following Parts of the GPDO include the requirement for developers to seek Prior Approval:

- Part 6 – agricultural buildings and operations
- Part 7 – forestry buildings and operations
- Part 19 – development ancillary to mining operations
- Part 20 – coal mining development by the Coal Authority and licensed operators
- Part 24 – development by electronic communications code operators
- Part 30 – toll road facilities
- Part 31 – demolition of buildings

Although it has improved recently with the publication of guidance on validating applications, advice on applying for a Prior Approval has been unsatisfactory. And while it provides very welcome advice, even this new guidance appears to be targeted at the needs of the LPA rather than at non-specialist applicants trying to understand what is required of them.

For potential applicants, the availability of advice is generally inadequate. DEFRA's 2002 *Farmer's Guide to the Planning System*,<sup>26</sup> contains detailed guidance on submitting outline and full planning applications, but none at all on applying for a development under the Prior Approval system. In Wales the 2003 *Farmers' Guide to the Planning System* recognises the system and offers some guidance, but it is still relatively superficial.

The most detailed explanation of the system is found in Annex E of the old PPG 7 on the Countryside<sup>27</sup> where there is a full, but somewhat technical account of the way the system operates. While it is still current, this account has been dropped from PPS 7 and is not available except online through the Communities and Local Government website.

The situation is similar for all other categories of prior approval except those under Part 24 for telecommunications equipment. The procedures for applications made under Part 24 are much better described and are more accessible to non-professional users. Communities and Local Government's *Code of Best Practice on Mobile Phone Network Development*<sup>28</sup> contains full guidance for both applicants and LPAs on the requirements of the system in terms of documentation, notification and time limits. It also contains first class guidance on best practice in the siting and design of masts which would help applicants to anticipate many of the concerns that an LPA might have with such a proposal.

26 <http://www.communities.gov.uk/documents/planningandbuilding/pdf/143516>

27 <http://www.communities.gov.uk/documents/planningandbuilding/pdf/147405>

28 <http://www.communities.gov.uk/publications/planningandbuilding/codebest>

## Procedures

Commentators on the Prior Approval system remark on high levels of uncertainty about what the system entails. To a considerable extent, confusion is created because of the different procedures that operate under different parts of the GPDO. Table 8 below highlights the contrasts between Prior Approvals made under Parts 6 and 24 which represent the two main Parts of the GPDO under which applications are made.

Table 8 compares the procedures under the two Parts. Except for two key issues – that the LPA may not consider the principle of the development and that failure by the LPA to determine the application within the stipulated period means that it may proceed – it highlights how the procedures under Part 24 are closer to those for a full planning application than they are for agricultural buildings.

<b>Table 8: Comparison of Prior Approvals procedures</b>				
		<b>GPDO Part 6: Agricultural buildings</b>	<b>GPDO Part 24: Electronic equipment</b>	<b>Planning Applications</b>
<b>Standard Form?</b>		Recommended	Recommended	IAPP
<b>Fee</b>	England Wales	£70 £59	£335 £316	£335 £316
<b>LPA can consider Principle of development?</b>		No	No	Yes
<b>Issues LPA can consider</b>		Siting, design and appearance	Siting, and appearance, including design and materials	All material planning considerations
<b>Requirements with submitted Application</b>		<ul style="list-style-type: none"> <li>• Written description (including materials)</li> <li>• site plan</li> <li>• fee</li> </ul>	written description <ul style="list-style-type: none"> <li>• location plan</li> <li>• landowner notification</li> <li>• aerodrome operator notification (if &lt; 3 km)</li> <li>• evidence of potential mast sharing</li> <li>• the need for the development</li> <li>• evidence of consultation with schools if nearby</li> <li>• ICNIRP certificate</li> <li>• height of antennae &amp; frequency, modulation and power output</li> <li>• fee</li> </ul>	As set out in the Town & Country Planning (Applications) Regulations 1988

	<b>GPDO Part 6: Agricultural buildings</b>	<b>GPDO Part 24: Electronic equipment</b>	<b>Planning Applications</b>
<b>Consultations required?</b>	Discretion to be applied	Same as for planning application	Statutory consultations as the minimum. 21 days consultation period.
<b>Time allowed to determine</b>	28 days	56 days	56 days
<b>Can time period be extended?</b>	Additional 56 days for further details to be considered	No	No
<b>If decision not made in time?</b>	Developer can proceed. If additional 56 days invoked, developer cannot proceed.	Developer can proceed	Developer cannot proceed
<b>Right of appeal?</b>	No right of appeal to request extra detail; right of appeal in relation to decision on extra detail	No right of appeal to request extra detail; right of appeal in relation to decision	Yes

### 6.3 Views about the System

Most commentators on the system appear to find it unsatisfactory, particularly as it applies to electronic communications equipment.

There are well publicised health related public concerns about mobile phone masts and associated base stations. In principle, these concerns would become a material consideration to be taken into account in considering a planning application and campaigning groups such as Planning Sanity hold that they should be considered as part of a full planning application. In the Government's view, as set out in PPG8, so long as a proposed mobile phone base station meets the guidelines for public exposure set by the International Commission on Non-Ionizing Radiation Protection (ICNIRP) it should not be necessary for a local planning authority, in processing an application for planning permission or prior approval, to consider further the health aspects and concerns.

In a recent report on the system the Local Government Ombudsman<sup>29</sup> noted that nearly 100 complaints are received each year about the way the regime

<sup>29</sup> <http://www.lgo.org.uk/pdf/phone-masts-sr.pdf>

applies to phone mast prior approvals. The report shows how the limitations of prior approval powers make it impossible for councils to address these concerns to the public's satisfaction. These problems create burdens on Local Planning Authorities:

*"The number of occasions on which councils have missed the 56-day deadline for making a decision is nevertheless a concern. And despite some well-publicised incidents, problems continue. ... Even the best of councils may be subject to criticism because of the mismatch between what councils can legitimately do, and what the public wants and expects."*

The *Nathaniel Lichfield Review*<sup>30</sup> describes the unpopularity of the system which it ascribes to their short time limits, the public difficulty of understanding their limited scope and the inconsistency in the way the process is applied across the GPDO. Lichfield proposes a number of changes that would make the prior approval procedure very similar to that for a planning application, except that a decision would be guaranteed at the expiry of the specified period, which could be 56 days.

The *Heriot Watt Review*<sup>31</sup> takes a different approach. It agrees that planning officers consider prior approval to be an unsatisfactory half way house in which their influence is limited to issues of aesthetics and detailed siting, but not to the appropriateness of the development in principle. It recommends abolition of the system in most instances, and replacing it by the preparation of design guidance for minor developments. Conformity with this guidance would be a general condition of permitted development, although this would raise highly challenging questions of compliance and enforceability.

Feedback from Development Control Managers confirms the findings of other studies in highlighting dissatisfaction with the system. A large majority of DC managers from our survey would like to see it abolished, arguing that what they see as the 'half-way' house between permitted development and a full planning application, is confusing to everyone. While many criticise its use for agricultural buildings, DC managers are most strongly opposed to its use for telecommunications developments where it can generate great local opposition. Similar comments were made at the stakeholder meetings. However, there was also a view that if the boundaries of permitted development are extended some additional developments might be brought within the ambit of the system. One example suggested was for microgeneration equipment within a National Park.

In contrast, significant support for the system has been voiced at stakeholder meetings by representatives of the agriculture industry who stressed its benefits in providing applicants with a certainty on outcomes which was important to them. For example:

30 <http://www.communities.gov.uk/documents/planningandbuilding/pdf/148607>

31 <http://www.scotland.gov.uk/Publications/2007/03/29102736/0>

*“The prior approval procedure is now an accepted part of the system and is understood by the majority of farmers. While there might be some issues about its operation in practice its fundamental purpose remains valid, namely an expedited planning procedure for farmers but one allowing local authorities an opportunity to vet larger scale permitted development. Most prior approvals are not in any event contentious as evidenced by the low number of local authority interventions (on average less than 15 per cent). The need for local authority scrutiny of prior approval applications is understood.”*

Support has also been provided by the leisure home industry which favours the use of prior approval in updating facilities at existing caravan sites.

The concurrent *Entec Review* of permitted development rights for non-domestic microgeneration favoured the use of a system of Prior Approval in some instances. However, its unpopularity with planning officers caused Entec not to recommend its use as a means of simplifying the process for the development of small scale renewables and low carbon technologies. In some instances Entec suggests instead a system that would require a developer to receive written confirmation from organisations such as the Countryside Council for Wales, archaeological bodies and the Civil Aviation Authority that the development will not significantly adversely impact on ecology, archaeology, or radar operations.

Finally, it should be noted that the principle of Prior Approval has support in some areas. A case for extending it to all categories of householder developments was made by respondents to a Planning Aid study of views of proposed changes to the Part 1 of the GPDO:

*“There was widespread support for the idea of a ‘prior notification’ system for all extension proposals, which would alert planners (and residents) of untoward proposals. This would give an opportunity for all to understand the proposals and to seek guidance from the local authority about the scope for planning and building regulation control.”*

While it is clearly envisaged that such an arrangement would be directed towards householders and their neighbours, the burden of managing and policing it would rest with local authorities and impose significant additional administrative burdens on them.

### **Summary of the main areas of criticism**

The strongest and most consistent criticisms of the system arise from the way that it applies to telecommunication equipment. Although operators are now sufficiently familiar with processes to ensure that complete applications are made first time without the need for further details, notifications made under Part 24 continue to cause local disquiet and controversy. DC managers report that the amount of work created by a Part 24 notification very often exceeds that required for other categories of minor application and commonly this includes DC Committee consideration.

For other categories of development most DC managers' concerns arise from the widespread lack of understanding of what is required for a Prior Approval application – for agricultural buildings these may typically be put together by a farmer who, lacking sufficient understanding of the system, fails to provide the information required first time round. This causes further rounds of paperwork and delays to the applicant. In addition, the fees for applications made under Part 6 of the GPDO are significantly less than for a full planning application, but the work required to resolve them which includes application checking, perhaps a request for further details, a site visit, and in many cases local advertising and consultation, is can be great as for a full application.

A further problem, we suggest, is that outside of what might be deemed the special case of Part 24 applications, an insufficient number of Prior Approval applications is made for there to develop a critical mass of understanding of their operation.

## 6.4 Options for Change

### Advantages and Disadvantages

Our appraisal supports other findings in reflecting a sense that the Prior Approval system is unsatisfactory. In summary, the major reasons for this are:

- the controversy that arises from applications made under Part 24 has grown so entrenched that we are concerned it is undermining the credibility of the Prior Approval system overall
- a general lack of understanding about how the system operates
- the system is unduly complicated because different procedures apply for different Parts of the Order
- the strong belief amongst many LPAs that the system does not reduce costs or workloads or lead to significant time savings for applicants
- the risk that LPAs face of public criticism, complaint of maladministration or legal challenge on Human Rights grounds, if they do not publicise a prior approval sufficiently

On the other hand, if it could be made to work better, the system would offer some potentially useful benefits:

- it would provide applicants with greater certainty on the time that it will take for the LPA to determine a minor proposal. This may be important for their project planning

- it would offer a simpler system for regulating minor developments that in just a few circumstances raise legitimate concerns amongst the wider community but in most instances have a low (Level 1) impact that means they should be permitted
- it retains the opportunity for the LPA to intervene on specified areas when it deems it necessary for developments that otherwise could be treated as permitted
- identified consultees could potentially be notified of proposals that are relevant to their area of activity that otherwise would be permitted
- In short, Prior Approvals offer a system more tailored to risk management than the more precautionary, risk averse approach that demands a full planning application for every development if it is of a kind that could have an impact beyond the host property.

### Option identification

We have examined four broad options for the Prior Approval system. The issues and implications of these are set out below.

#### 1. No change to Prior Approvals

This would mean the fundamental areas of concern highlighted by our and other studies of the system remain unaddressed.

#### 2. Abolish Prior Approvals

All types of development currently dealt with as Prior Approvals would either be 'permitted development' or require a full planning application. Which side of the line these developments would fall would be determined by considering their impact on matters of material planning interest. Although this would reduce the paperwork surrounding developments that became permitted, it is impossible that such a step could reduce the number of full planning applications. Rather it would be likely to lead to an increase in numbers unless a solution like that proposed by the Heriot Watt study in Scotland could be developed that would make conformity with planning guidance a general condition of permitted development.

#### 3. Reformulate and extend Prior Approvals

Develop a single standard procedure for developments of a minor nature on which the LPA would retain the opportunity to comment through the Prior Approval process. Any such development should be non-contentious in principle but liable in clearly defined circumstances to require an input from the LPA. The reformulated procedure could then be extended to other categories of development. Careful consideration needs to be given as to whether a reformulated procedure could realistically apply to telecoms developments.

Additional clearly specified categories of minor development which our Review has identified and which now require a full planning application could be subject to this process. Details on siting, design and materials, and any other matters specified in the GPDO would be submitted to the Local Planning Authority at the start of the notification period which might be required to consider them.

Three possible alternative procedures have been identified:

**56 Days:** LPAs would be given perhaps 56 days to consider the proposals on issues specified in the GPDO, after which time the development would enjoy deemed consent. Just as for a full planning application, submitted proposals would be subject to public consultation. This is the model proposed by the Lichfield Review and which currently applies to applications made under Part 24. It would bring the Prior Approval procedure more closely into line with that of a full planning application except that a decision would be guaranteed at the expiry of the specified period. This is the only one of three alternative models which we consider would be suitable for telecoms applications under the current arrangements.

**28 Days:** LPAs would be given 28 days to respond to the proposals on issues specified in the GPDO, after which time the development would enjoy deemed consent. Third party consultation would be discouraged or even explicitly ruled out. Unlike the 28 day model which currently applies to Prior Approval for agricultural buildings, and which is chiefly criticised for the lack of clarity about the requirements of the system and how the procedures operate, full plans would be required at the outset and there would be no ability to request further details and extend the 28 days. This model would be unsuitable for telecoms developments as it would in our view unacceptably downgrade the general public's legitimate expectation of involvement in telecoms decisions.

**14 Days:** LPAs would be given 14 days to indicate whether, because of issues that may arise from its siting or design, an individual proposal would require a full planning application. The submitted proposals would not be subject to consultation unless the authority requested a full application for them. This would introduce a new vetting role for the authority and would require there to be some incentive for the LPA to ensure that only those proposals that are likely to raise material issues lead to a full planning application. This model would not be suitable for telecoms developments.

Under each of these models the LPA would be able to comment on the matters (generally relating to siting appearance and design) specified by the GPDO but not to the principle of the development itself.

Clear guidance on the operation of any one of these models would be required, including application procedures, what matters the LPA could consider, what conditions can be applied, the remedies available to the applicant and how local authorities should operate the procedures and undertake consultation. In the longer run, workloads for both LPAs and applicants would be simplified if the Government published guidance setting out the local circumstances in which the LPA would be likely to intervene.

Any one of these models would provide an opportunity to include several categories of development for which there is rarely an objection to the principle of the development, but sometimes concerns about the details of siting and design. Our study suggests that these might include such developments that now commonly require a full planning application as:

- plant and equipment
- shopfronts
- automated teller machines (ATMs)
- horse shelters
- disability accesses
- street furniture
- facilities at caravan sites
- minor developments relating to the management of waste processing sites, landfill sites and agricultural hubs

#### 4. **Direct referral to notifiable authorities**

A fourth option could apply to developments where concerns about a highly specific potential impact require the LPA to notify another body before it issues a decision. In these cases it may be possible to eliminate the role of the LPA entirely, and place the onus on the developer to obtain the requisite clearance or license directly from the body concerned; but a more likely alternative is that the developer would be required to undertake the necessary consultation(s) before submitting a formal Prior Approval application to the LPA.

This arrangement has been mooted by the ENTEC Review of Microgeneration as a means of guarding against creating adverse impacts for a number of agencies including the Civil Aviation Authority where there is concern about interference with airport radar, nature conservation agencies concerned about impacts on wildlife; and archaeological authorities concerned about the damage to archaeological evidence caused by ground excavations of ground source heat pumps. Some elements of this arrangement already apply to the way that the Habitats Directive operates.

Other developments, in addition to those that ENTEC proposes should be referred to a notifiable authority, might include:

- basement developments subject to Environment Agency approval
- ATMs subject to Police/Crime prevention approval

### Option Appraisal and Selection

Each of the options has different costs and benefits that extend considerably beyond planning related concerns. There are a number of broad objectives against which they should be appraised:

- **for everybody:** that the system reduces red tape and can be clearly understood and seen to be fair
- **for applicants:** greater speed and certainty of outcome, less paper work, lower costs
- **for LPAs:** ensuring administrative efficiency, fewer unnecessary applications, the ability to intervene when necessary, ability to manage complaints from neighbours and the wider community, and ease of and cost effective enforcement
- **for consultees:** the opportunity to respond to developments that may have a material impact considered to be unacceptable

As indicated in the comparison table on the following page (table 9), each of the options raises problems when measured against all of these objectives:

**Option 1:** doing nothing will leave unresolved a situation that is widely considered to be flawed, and it will not reduce the number of minor applications as the Government is seeking to do.

**Option 2:** abolishing the system entirely would perhaps receive the support of a number of LPAs, but not the agriculture industry which values Prior Approvals and feels they work for them. If the right balance is to be struck between farmers' freedom and countryside protection, many of the agricultural applications that are currently dealt with under the system would require a full planning application. This would not accord with the Government's deregulatory agenda. Abolishing the system would also give rise to a stark

choice between increasing the number of full applications, or running the risk that adverse third party impacts could result from unregulated developments going ahead.

**Table 9: Prior Approval – comparison of options**

	<b>Do Nothing</b>	<b>No Prior approvals</b>	<b>56 days notice</b>	<b>28 days notice</b>	<b>14 days notice</b>	<b>Notify key consultees</b>
Typical types of new or existing application	Retain for Existing Parts – 6,7,19, 20, 24, 30, 31	None	Shop fronts, ATMs, DDA access, caravan site facilities	Shop fronts, ATMs, DDA access, caravan site facilities	Shop fronts, ATMs, DDA access, caravan site facilities	Development in flood risk areas, wind turbines near airports
<b>For everyone</b> – Less red tape	–	X		✓	✓	X
– Regulatory clarity	–	X	X	✓	X	✓
<b>For applicants</b> – speed of outcome	–	XX	✓	✓✓	✓✓	✓
– Less paperwork	–	X	✓	✓	✓	XX
– Lower costs	–	XX	✓	✓	✓	✓
<b>For LPAs</b> – Administrative efficiency	–	XX	–	✓	X	X
– Fewer full applications	–	XX	✓✓	✓✓	✓	✓✓
– Chance to intervene	–	–	–	X	X	X
– Can consider 3rd party views	–	✓✓	-	X	X	✓
– risk of legal challenge	–	✓✓	X	✓✓	X	X
– Ease of enforcement	–	–	–	-	X	XX
<b>For consultees</b> – Can comment on proposals	–	✓✓	–	X	X	X

Key: ✓✓ Major benefit, ✓ some benefit, – No Change, X some loss, XX Major loss.

**Option 3:** to retain and reform the system of Prior Approvals by standardising the procedure to a single agreed model.

The 56-day model is not favoured as it is too close to a full application and hence, as the telecoms experience shows, is likely to necessitate the same level of input as a full planning application, thereby defeating the object of the reforms. There is no necessity for an approval process which deals simply with the detail rather than the principle of a minor development to take 56 days to process (other than for telecoms masts where there is a significant weight of public expectation). Bringing all Prior Approvals into line with telecoms Prior Approvals would be a retrograde step for the planning system, as it would offer no time advantage to applicants as compared to a full planning application.

A modified version of the current 28-day Prior Approval procedure for agriculture developments described in Annex E of PPG7 is favoured as an intermediate regulatory control for minor developments that do not require a full blown planning application. It would differ in two key respects from the current 28 day procedures:

- (i) there would be no opportunity for public consultation
- (ii) the 28 day period could not be extended

Under this option, LPAs would be given 28 days to respond to a notification to them for clearly specified developments within the GPDO. To address the problem under the current system that “discretionary” consultation leads to unnecessary overconsultation under the precautionary principle plus the fear of ombudsman complaint, neighbour notification would not be undertaken. The 28-day notification would thus be more closely allied to a pre-application consultation in that it would allow the LPA input into prescribed matters of detail.

A 14 day approval period would place a considerable onus on the LPA that may prove unmanageable for many of them. The precautionary principle might also lead LPAs to decide to exercise their right to approve the details of the development and ask for full applications in the majority of cases simply as a safeguarding mechanism.

**Option 4:** designating certain types of minor development as ‘permitted development’ provided clearance is given by a specific consultee has the advantage of reducing the workload for LPAs as well as increasing the freedom of applicants to work to their own timescales, but the obverse is that it would be difficult to police and could increase the enforcement workload on LPAs.

The alternative of asking developers to undertake their own consultations before submitting a formal Prior Approval application could put developers unfairly at the whim of statutory consultees, who might be slow or reluctant to grant a licence. Developers would have no legal recourse when faced with

an unresponsive or uncooperative consultee. In these instances, however, if a developer received no response within the stipulated time period the case might revert to a 28 day procedure rather than a full application. There would also need to be a verification process to ensure that the developer had been entirely open with the consultee about his proposals, which could be just as time-consuming as the normal consultation process on a full application.

## 6.5 The Preferred Option: Reconfiguration of the 28-day Prior Approval System

The preferred option as set out above is to retain the current 28 Prior Approval system but to reform it as follows:

- full plans to be submitted at the outset
- technical justification if required eg noise report
- licensing details if required eg caravan parks
- 28 days for determination
- LPA may take into account all material planning considerations, except the principle of the development
- no extension of time or ability to seek further details
- no external consultations
- default permission (deemed consent) if no decision in time
- consents may carry conditions, and the use of model conditions should be encouraged
- right of appeal (possibly to the planned Local Member Review Boards)
- fees uplifted to reflect the true work involved, probably in line with householder applications (£150)
- development of clear instructions for applicants and LPAs
- rebranding under a new name

At least for the credibility of the other Parts of the GPDO, it would be preferable for the problematic Part 24 which often raises questions about the principle of the development rather the detail, to be separated from it. It must be made abundantly clear that the 28-day model outlined above is not considered appropriate for telecoms developments. Rather it would apply to agriculture and forestry development as at present (and the other minor

areas currently included in the GPDO) and be expanded to include other minor developments sharing the following characteristics:

- the principle of the development is acceptable
- there is no evidence of widespread public concern about the type of development
- aspect(s) of the scheme require approval from the LPA
- significant harm would not result if a deemed consent was inadvertently granted after 28 days

### **Possible candidates for permitted development under Prior Approval**

Below is a list of some developments that might be considered for inclusion under an extended prior approval process.

#### **Plant and equipment:**

- new/extended permitted development rights are proposed for shops, restaurants, offices and institutions
- where such proposals would involve new plant or equipment which could generate noise, vibration, fumes or other potentially intrusive side effects, it is appropriate that Prior Approval be sought
- it is not proposed that the requirement for Prior Approval for plant and equipment be retrospectively applied to existing agricultural, industrial, general, mining and utilities classes in the GPDO, since there is no body of evidence to suggest that plant and equipment added to such sites gives rise to complaints
- siting and design (including all forms of emissions) would be matters for consideration

#### **Shopfronts:**

- applicable to replacement shopfronts outside Conservation Areas. (Listed building consent would be required where developments affect listed buildings and full permission for conservation areas because there may be issues of principle to consider)
- shopfronts are replaced at regular intervals by retailers and do not raise an issue of principle
- many LPAs have published shopfront guides against which Prior Approvals could be judged

- in areas with no shopfront guides, Communities and Local Government might consider commission national good practice guidelines for shopfronts, though we understand that at present Communities and Local Government is unlikely to consider publishing further design guidance
- design and external appearance would be matters for consideration

#### Automated teller machines:

- as with shopfronts, the process would be applicable outside Conservation Areas (again listed building consent would be required where developments affect listed buildings and full permission would be required in conservation areas where issues of principle may arise)
- although the assumption underpinning the Prior Approval process is that the principle of development should not be at issue, the Home Office advises that there may be occasions when the general environment of a street makes the crime risk of an external ATM unacceptable, even with the use of cameras, privacy zones etc. In these circumstances we would suggest that the police would be able to insist that the only safe option is an internally installed ATM – which would not in itself require planning permission
- Siting, design and external appearance would be matters for consideration. The following considerations might apply:
  - availability of appropriate access/parking for staff delivering cash to the machines
  - width of footpath (less than 1.5m?)
  - distance to classified road junction (less than 10m?)
  - distance to entrance of residential building (less than 10m?)

#### Horse shelters

- applicable in National Parks, the Broads and Areas of Outstanding Natural Beauty (Prior Approval not required outside these areas)
- whilst the use of land for the keeping of horses may in itself have no landscape impact, the control of siting and external appearance of horse shelters in sensitive areas may be necessary
- the approach would be similar to that which applies to farm buildings
- siting, design and external appearance would be matters for consideration

#### Disability accesses:

- applicable in Conservation Areas, World Heritage Sites and listed buildings only (Prior Approval not required outside these areas)

- as noted in the chapter on disability access, there is a requirement for service providers to make reasonable adjustments to their premises to overcome physical barriers to access
- adjustments may be freestanding additions (car parking, setting down points and routes to buildings) or alterations to buildings (ramps, steps and entrances)
- it is not necessary to consider the principle of disability access, but in the case of listed buildings, World Heritage Sites and conservation areas it is appropriate to consider the visual impact of such changes, and in occasional circumstances to prefer an internal solution
- siting, design and external appearance would be matters for consideration

### Street furniture:

- presently there is little control over street furniture installed by utilities companies and statutory undertakers, and there is a case for introducing Prior Approvals in Conservation Areas and World Heritage Sites where inappropriate and uncoordinated street furniture can harm their appearance
- siting and design would be matters for consideration (including cumulative impact)
- while there is a longstanding requirement for full public consultation for developments in Conservation Areas we do not consider it would be justified in this instance where the LPA is provided with an opportunity to intervene in an area where it cannot do so at all at present. The LPA may anyway consult the public on its policies for such developments in the reviews of area based Conservation Area policies

### Facilities at caravan sites:

- where a caravan site has planning permission and is licensed under the Caravan Sites and Control of Development Act 1960, the upgrading or replacement of ancillary facilities such as toilets and shower blocks which are required under the terms of the licence but which may currently require a planning application could be dealt with as Prior Approvals. Commercial facilities such as kiosks, bars or restaurants would continue to require a full planning application
- such an approach is appropriate given that the principle of the caravan park and the need for communal facilities has been accepted
- siting, design and external appearance would be matters for consideration

### Waste management:

- the waste management chapter sets out a range of potential new permitted development rights for waste management facilities, applicable to waste processing facilities of an industrial nature and to landfill sites
- analogous with caravan sites, many minor operations on waste management sites are required to comply with the Pollution Control licence
- in order to retain control over specific types of minor development, it is proposed that Prior Approval be required for certain categories of development
- for industrial waste processing sites, Prior Approval would apply to minor changes to operational layout, odour control systems and biofilters, replacement plant and equipment, empty skip storage and new storage bays
- for landfill sites, Prior Approval would apply to the installation of leachate management infrastructure, the erection of temporary buildings, the installation of weighbridges and wheelwashes, the installation of odour control systems, replacement plant and equipment, amendments to landfill phasing and alterations to stack heights
- agricultural hubs could also be included
- siting, design (including control over noise emissions and contamination) and external appearance would all be matters for consideration

In addition to the above it may also be possible to include some developments from Option 4 which occasionally raise problems in clearly defined locations. These could for example include wind turbines where they might interfere with airport radar, or ground source heat pumps where they could damage areas of archaeological interest.

### A New Name

A change of name is imperative since the current dual name is confusing in itself, whilst the term Prior Approval is misleading since it implies an automatic consent. Our proposal to require full details at the outset would do away with the need for the dual names. A new name will also help to distinguish this procedure from the existing one.

It is suggested that any new name needs to carry the following connotations:

- implies a halfway house between a full planning application and an informal pre-application enquiry
- implies a 1-stage not 2-stage process

- does not imply that consent will automatically be forthcoming
- carries the connotation that the procedure is a notification of an intention to develop, giving the LPA the chance to review the details, without any form of external consultation or notification

Possible alternative names include:

- Planning Notification
- (Permitted) Development Notification
- Notification of Intention to Develop
- Minor Development Certificate or Notice

Our favoured name is Minor Development Certificate, which carries the connotation of a certification process rather than a planning application.

## 6.6 Risks and Uncertainties

### Primary legislation

Section 60(2) of the 1990 Act provides for the Prior Approval procedure in the following terms:

- it relates to the erection, alteration or extension of buildings
- design and external appearance may be considered
- no specific title such as 'Prior Approval' or 'Prior Notification' is stipulated

While the 1990 Act's definition of building ("*building*" includes any structure or erection, and any part of a building, as so defined") is wide-embracing, a strict interpretation of Section 60(2) could exclude some of our proposed new categories of Prior Approval set out above, such as street furniture, waste management, and some plant and equipment. Extending Prior Approval processes to cover these developments may therefore require some amendment to the primary legislation.

As regards the name of the procedure, there appears to be no specific intention in the Act to entitle the procedure either as Prior Approval or Prior Notification.

### Fees

It is vital that the fee paid by applicants for Prior Approval applications reflects the workload involved, or else the kinds of suggestions put forward in this report will only add to the pressure on LPA resourcing. Whilst it is outside the remit of this report to investigate the time taken to process agricultural Prior Approval applications (and note that for the reasons set

out below the costs of processing telecommunications Prior Approvals are not included in this assessment), we think the current £70 (£59 in Wales) is not a fair reflection of the workload involved in determining Prior Approvals. The fee has to cover registration, internal consultations, consultee consideration/site visit, officer consideration site visit, issuing decision notice, compliance with conditions. Taking all this into account, a fairer fee might be £150, (£159 in Wales) the same as for a householder application.

### **Loss of opportunity for the LPA to consult and third parties to comment**

One criticism that may be raised of this proposal is that it will remove the opportunity for LPAs to consult on developments which become subject to a prior approval procedure. For those categories of development which currently require a full planning application this could constitute a loss of current third party rights to object to a proposed development.

However, this would be justifiable in our view, so long as the tests for the types of development that require a prior approval – the principle of the development is acceptable, there is no evidence of widespread public concern about this kind of development and significant harm would not result if a deemed consent was inadvertently granted after 28 days – are strictly applied. Of course the LPA will retain the opportunity to intervene in such proposals on the basis of its policies and experience. In contrast, if full permitted development rights are to be accorded to these developments there would be no opportunity for anybody to intervene in them.

### **Application and validation procedures**

If a new regime is introduced new administrative procedures will be required. These should entail a new application form, although this would be based on the 1APP system and should be relatively straight forward. Guidance for applicants including necessary supporting information will be required and LPAs may need advice on validation procedures.

### **Telecommunications**

The most serious practical complication to extending prior approval processes concerns decisions that are reached over developments under Part 24 of the GPDO.

The need for clarity and comprehensibility make it highly desirable for a single prior approval model that is generally accepted and widely understood. Yet it is difficult to see how some forms of development under Part 24 that raise public concerns could fit into the criteria for Option 3 above, particularly as the tolerances that are accorded to them are in many quite significant respects considerably more generous than those for instance that Entec is recommending for microgeneration equipment – developments that are facilitating the provision of renewable energy which is perceived by the public to be a national priority.

Part 24 notifications have already moved some way away from the original concept of Prior Approvals as laid down for example in the 1990 Act, to the point, as we show above, that they are now very close to a full planning application. Persistent public concern has caused the time limits for LPAs to respond to a Part 24 notification to be extended to 56 days to allow for public consultation. The current arrangements do not relate at all well to the more streamlined procedures for the kind of less contentious developments we are considering here.

In our view, therefore, it is important that the concurrent review of Prior Approval procedures under Part 24 should take account of the impact that they are having on the efficiency and the public perception of other planning processes. Should the controversies that Part 24 approvals generate be a reason for postponing wider reforms to the planning system, there will be costs that could be significant and need to be recognised.

Should, however, it prove difficult to resolve the Part 24 problem it may be worth considering whether developments that fit within the criteria of Option 4 could be made subject to separate regulatory processes beyond planning controls. Overall the potential costs and benefits of such an arrangement under this option need more careful appraisal than we have been able to provide in this assignment. The overall regulatory benefits need to be examined further.

# 7 Sustainability and Climate Change

## 7.1 Background

A sustainability agenda has underpinned Government planning policies for the past decade. The importance of this agenda was emphasised by the publication in December 2007 of the Supplement to PPS1 entitled Planning and Climate Change<sup>32</sup>. The key elements of the Supplement are summarised in the next section below.

It is important therefore that the role and scope of the GPDO should be in accordance with the policies that underpin the Government's objectives for sustainable development. To assist with this process, each of the recommendations contained in the following chapters is supported by a matrix that identifies any sustainability or environmental implications of each of the recommendations made in this report.

The last major revision of the GPDO occurred in 1995, two years before the Kyoto Climate Change Protocol which perhaps more than any other event established the significance of sustainability in planning policy in England and Wales. The existing GPDO has never been adequately screened to test its support for the principles of sustainability and the climate change agenda. Amongst the key issues that need to be addressed are the following:

- do the rights contained within the GPDO conflict with the most recent Code for Sustainable Homes rating<sup>33</sup> for new homes by allowing householders to potentially undo the measures incorporated in new homes to increase water conservation and energy efficiency and reduce waste?
- do the rights contained within the GPDO allow owners and occupiers to install plant and equipment and make other changes which may be unsustainable eg installing uPVC doors and windows, installing air conditioning equipment etc?
- does the GPDO inadvertently encourage unsustainable forms of transport by allowing, say, isolated buildings to be enlarged which can only be reached by car?

32 <http://www.communities.gov.uk/documents/planningandbuilding/pdf/153119>

33 <http://www.communities.gov.uk/documents/planningandbuilding/pdf/codesustainhomesstandard>

- does the GPDO do enough to address increased flood risk from climate change, particularly in light of the requirement for Flood Risk assessments introduced in the revised PPG25 “Development and Flood Risk” published in 2006?
- does the GPDO conflict with Environmental Impact Assessment thresholds and could therefore unacceptable environmental impacts be occurring as a result of ‘permitted development’ rights?
- how do the Habitat Regulations impinge on permitted development rights?

Not included in this list is the support that the GPDO provides for renewable energy. A separate study is currently underway which is examining permitted development rights for non-domestic microgeneration.

## 7.2 National Policies: Supplement to Planning Policy Statement 1

The Government published the Supplement to PPS1 in December 2007, to describe how planning should contribute to reducing emissions and stabilising climate change, and to take into account the unavoidable consequences. Although it is to be read alongside existing PPSs and PPGs the supplement to PPS1 takes precedence over them in relation to climate change issues.

The Supplement describes how the Planning white paper emphasises the fundamental importance of planning in delivering sustainable development in a changing global context. It notes that in contributing to a prosperous economy and to a high quality of life, planning has a key role in helping to tackle climate change. The Government’s key objectives for planning are thus to:

- deliver the Government’s climate change programme
- secure energy efficiency and reduced emissions in all new developments
- deliver patterns of urban growth that secure the fullest possible use of sustainable transport
- ensure new development is resistant to the impact of climate change
- enhance biodiversity while recognising the effects of climate change
- enable communities to tackle climate change
- respond to the concerns of business and encourage competitiveness and technological innovation in mitigating and adapting to climate change

The Supplement outlines the way that these principles should be considered and incorporated into plan making at different spatial levels at each layer of decision-making. It then describes the considerations that planning authorities should have when considering development proposals.

These require new development to:

- comply with local plan policies for renewable energy supplies and sustainable buildings;
- be planned so as to minimise carbon dioxide emissions and to support opportunities for low-carbon energy supply
- deliver a high quality local environment
- provide multifunctional accessible green spaces
- give priority to sustainable drainage solutions
- provide for sustainable waste management
- create opportunities for sustainable transport including through, the use of travel plans, safe and attractive walking and cycling opportunities and appropriate car parking.

New development should not prejudice renewable energy supplies or increase the vulnerability of new or existing developments.

Planning conditions should not be used to duplicate the Building Regulations in terms of building construction, but can be used to secure the provision and management of sustainable energy solutions.

### 7.3 Views about Sustainability

Although it does not imply that stakeholders do not perceive any relationship between the GPDO and climate change, climate change issues were not strongly raised at the Sounding Boards or by Development Control Managers. We recorded no strong arguments that the GPDO needed to be tightened to reduce the risk of unsustainable 'permitted development' occurring. In our view the low levels of concern about these issues are more likely to reflect a perception that the GPDO deals with minor changes to existing buildings and landuses, and as such it is unlikely to impact on climate change in a significant way.

Detailed feedback from the Environment Agency touched on a number of areas which have relevance to climate change:

- they argue that 'permitted development' rights should not be extended for vulnerable uses in areas at risk from flooding

- permeable hardstanding ought to be encouraged by the GPDO to reduce surface water runoff into the drainage system
- 'permitted development' rights should be not be extended where it could give rise to more unregulated pollution

## 7.4 Code for Sustainable Homes

The current code was published in February 2008 and provides a star rating system from 1 to 6 for new homes using a criteria based scoring system covering performance in 9 key areas:

- energy and CO2 emissions
- water
- materials
- surface water run-off
- waste
- pollution
- health and well being
- management
- ecology

Measures which may be incorporated within new household design include:

- Combined heat and power generation
- Low flow showers
- Photovoltaic roof tiles
- Sustainable urban drainage
- Dual flow toilets
- Water butts and compost bins
- Energy efficient glazing
- High insulation

Some of these measures are inherent in the design of new housing and so are reversible only at great cost eg wall insulation, photovoltaic tiles, combined heat and power generation while others are more easily reversible such as compost bins and water butts.

The GPDO allows changes to buildings, such as the replacement of windows and doors, roof maintenance including replacement tiles that are deemed to have a low impact in terms of the more conventional planning concerns we have discussed in chapter 2. Little consideration has been paid to the extent to which such changes could result in more sustainable construction techniques being replaced by less sustainable ones.

Conversely much of what the Code seeks to achieve is not covered by the GPDO eg internal changes to a dwellinghouse such as the showers or toilets which are not planning matters. Water butts and compost bins also lie outside planning's general ambit. It may be feasible for the GPDO to carry conditions to govern the design of or materials for the replacement of doors, windows and roof tiles; but the practical consequence of bringing such changes under planning control would be a massive increase in the burden of planning applications. Given our remit of finding ways to reduce the overall number of planning applications, should the government decide that controls are required for these areas, we would suggest that the best option, would be to bring such matters within the remit of building control.

## 7.5 Plant and Equipment

Plant and equipment by their nature can have adverse impacts such as noise, vibration and emissions, which are dealt with in separate chapters within this report. Beyond this it is argued that they can also have unsustainable impacts such as wasting energy on air conditioning when more sustainable means of cooling a building could be designed. There may be an argument that the installation of all plant and machinery should be controlled via the planning system.

The installation of plant and machinery within an existing building (unless it is listed) does not of itself constitute development unless it is held to change the use of the building or involves 'material' external changes such as new vents. External plant and machinery constitutes development, but may be 'permitted development' under the GPDO; for instance, industrial premises are able to install external plant subject to its size and location, and many utilities companies and statutory undertakers enjoy similar rights. Other types of uses do not have the right to install external plant and machinery without planning permission.

If all external plant and equipment were brought under planning control, two consequences might occur; a rise in planning application numbers; or a focus on installing plant and machinery internally such that it doesn't constitute development. The fact that so much plant and machinery – whether sustainable or not – does not constitute development suggests

strongly that the planning system is not the correct mechanism for bringing such matters under control. Again, a better solution would be for separate controls – possibly again via the building regulations – to be brought to bear on plant and machinery, in the event that the government deems it necessary.

## 7.6 Transport

Reducing reliance on the motor car and giving people a choice of modes of transport is fundamental to the government's planning policies, and is a therefore key determinant in locational decisions on new development, as well as underpinning such policies as the 'town centres first' policy for retail and leisure developments. Notwithstanding the government's aims of reducing reliance on the motor car, people have generally continued to express their personal preference for the car above other modes of transport, leading to a continuing rise in car usage, with resultant traffic congestion and environmental impacts.

As we explain in chapter 2 of this report, the role of the GPDO is to grant permission for a range of minor developments which do not give rise to adverse third party impacts. By implication the types of development which the GPDO permits are modest in nature, relating principally to operational changes rather than to significant expansion which could impact on car use. The current GPDO contains relatively generous allowances for agricultural and industrial developments, raising the possibility that additional traffic will be generated. However, the additional traffic will be of a limited nature given that for both industrial and agricultural sites, the density of employment is often relatively low compared to, say, offices. There may be more risk of an increase in large commercial vehicles accessing the site, but it would be assumed that if the use existed already, then adequate arrangements exist for commercial vehicles to access the site. It should be noted that many local plans support the expansion of industrial premises even in rural areas, if the occupier requires additional floor space.

Any proposals to relax the GPDO may by implication give rise to a potential increase in traffic movements. However, such increases will be small, and must be balanced against the many advantages that will result from businesses such as offices and hotels having the right to undertake modest alterations without the need to seek planning permission. It should be a guiding principle of any proposals to extend or relax the GPDO that the scale of such proposals is controlled to ensure that there is no conflict with the climate change agenda.

A similar argument applies to the 'permitted development' rights for aviation development contained in Part 18 of the GPDO. Strategic decision on airports and airport capacity are taken at a different level within the planning system than the types of minor operations permitted by the GPDO. Therefore although the GPDO affords airport operators the ability to extend passenger terminals by 500 sq m or 15 per cent, the impact of such

developments on overall air traffic levels is negligible. However, the request by Peel Holdings for an increase in the 15 per cent allowance is not supported as it raises potential conflicts with transport policies as well as impacts which should properly be assessed via the planning system.

## 7.7 Flood Risk

Since the revision to PPG25 in 2001 and again in 2006, flood risk has become a key planning consideration in assessing new development in areas at risk from either sea or river flooding. PPG25 defines areas with a 1 in 1,000 risk of flooding as Flood Zone 2, and those with a 1 in 100 risk of river flooding (or 1 in 200 risk of sea flooding) as Flood Zone 3 (areas at highest risk).

The Environment Agency website contains flood maps for the whole of the country, but there are two particular problems associated with these maps:

- they only show areas at risk from coastal and river flooding; they do not show ground and surface water flood risk areas, which gave rise to much of the summer flooding in 2007 for instance
- often the boundaries of the flood risk areas are blurred, making it hard for property buyers to know whether they are located within a flood risk area or not

Strategic Flood Risk Assessments being undertaken by many LPAs as part of the new Development Plan process cover all forms of flooding and have provided a valuable adjunct to EA flood maps. Where a Strategic Flood Risk Assessment exists therefore, property owners need to refer to this as well as flood maps to know whether they are at risk of flooding.

Within Flood Zone 2, the Environment Agency requires proposals for “highly” or “more” vulnerable development to be accompanied by a Flood Risk Assessment; and within Flood Zone 3 proposals for “less vulnerable” developments to also be accompanied by a Flood Risk Assessment. Currently the Environment Agency exempts minor developments – defined as householder developments, and non-residential extensions of less than 250 sq m – from requiring a Flood Risk Assessment.

A number of issues were brought to the attention of the authors of this report in relation to flood risk:

- whether it is appropriate to change ‘permitted development’ rights in Flood Zones 2 and 3
- whether the GPDO should rightly include ‘permitted development’ rights for basements

- whether ‘permitted development’ for hardstandings should require them to be permeable
- whether ‘permitted development’ rights to create flood defences could be extended particularly for utilities and statutory undertakers

In addition, DEFRA’s recently published water strategy for England *Future Water*<sup>34</sup> contains potentially tougher policies for surface water drainage based on the lessons learned from the 2007 river floods. As well as supporting our recommendations from the review of householder permitted development rights, to restrict paving over front gardens for hard standing, DEFRA’s strategy promotes the wider application of Sustainable Drainage Systems (SUDS) through the use of natural drainage processes like porous paving and ponds. DEFRA’s strategy is to use surface water management plans to improve co-ordination between stakeholders involved in surface water drainage, and promote sustainable drainage systems by clarifying responsibilities and improving incentives for property owners and developers. These plans may well require the imposition of additional controls over permitted development rights in high risk areas. It is too early at the present time to recommend changes to the GPDO to reflect these plans, but the situation needs to be kept under review so that further changes may be introduced in the future.

### **Whether it is appropriate to change ‘permitted development’ rights in Flood Zones 2 and 3**

In our discussions with the Environment Agency, concern has been expressed about ‘permitted development’ rights in Flood Zones 2 and 3 which could bypass the sequential and exception tests which are applied to non-minor developments (with a footprint greater than 250 sq m). They have expressed particular concern at any changes in Zones 2 and 3 which could lead to “more vulnerable” uses such as new camping and caravanning sites, or extensions to institutions such as hospitals, nursing homes and schools.

The views of the Environment Agency highlight the inconsistencies within the current GPDO, because whilst hotels and nursing homes do not benefit from ‘permitted development’ rights in Flood Zones 2 and 3, schools and hospitals do. The implications of the Environment Agency’s comments are that ‘permitted development’ rights for ‘more vulnerable’ uses need to be limited to a floor area of 250sqm. The implications for caravan sites are covered in chapter 11.

Minor developments for “less vulnerable” uses have not been highlighted by the Environment Agency as a cause for concern, hence minor developments for shops, offices, restaurants etc will continue to be exempt from Flood Risk Assessments and are potential areas where the GPDO could be extended. The Environment Agency has highlighted that the most generous ‘permitted development’ rights currently available – for industrial sites and airports – should not be extended.

34 <http://www.defra.gov.uk/environment/water/strategy/pdf/future-water.pdf>

### Whether the GPDO should include 'permitted development' rights for basements

Section 55(2) (a) of the 1990 Act is clear that 'the alteration of a building by providing additional space in it underground' constitutes development. Although the GPDO is not explicit about whether basement extensions are included within its tolerances, most LPAs take the view that the GPDO permits basement extensions in principle. The Environment Agency has made a plea for there to be no change to 'permitted development' rights for basements in Flood Zones 2 and 3, which in affect means retaining the ability to add basement accommodation to a range of uses including schools and hospitals. The issues in relation to institutional extensions are discussed in Chapter 9. Given that shops, offices and the like are classified as "less vulnerable" developments, there may be no objection to allowing them to construct basements. What the GPDO does not allow for is the excavation of lightwells to serve basements, though these may not be needed for basements serving commercial buildings.

In view of the Environment Agency's advice it is necessary to take away the ability to construct basements as 'permitted development' in Flood Risk Zones 2 and 3 or where a ground/surface water flooding risk is identified in a Strategic Flood Risk Assessment. This approach was then in relation to householder developments in the Householder Development Consents Review, there is already a precedent for such an approach. Such a limitation represented a tightening of the GPDO for industry, schools and hospitals.

The Environment Agency raises a particular issue in regard to flats at basement level in flood risk areas, which potentially leaves occupiers with no upward means of escape. Given that the construction of a new flat below ground floor level requires planning permission, and hiving off a domestic basement to create a new flat similarly requires planning permission, the only issue which arises is if there is a proposal to extend "permitted" development rights to allow for the subdivision of existing dwellinghouses. This issue is addressed in chapter 12.

### Whether 'permitted development' rights for hardstandings should require them to be permeable

Various parts of the GPDO, notably those relating to industry and warehouses, allow for the construction of hardstandings. The unrestricted addition of hardstandings can have negative consequences for surface water runoff both by increasing the amount of water which flows through storm water drains, and by increasing the speed of runoff. The cumulative impact of increasing amounts of hardstanding in urban areas appears to have contributed to the increasing incidence of flooding such as those that occurred in 2007. The interim conclusion of the Pitt Review<sup>35</sup> into those floods is that householders and business owners should no longer be able to lay impermeable surfaces as of right.

<sup>35</sup> [www.cabinetoffice.gov.uk/the-pitt-review/~/\\_media/assets/www.cabinetoffice.gov.uk/flooding\\_review/flood\\_report\\_web%20pdf.ashx](http://www.cabinetoffice.gov.uk/the-pitt-review/~/_media/assets/www.cabinetoffice.gov.uk/flooding_review/flood_report_web%20pdf.ashx)

For such a policy to be feasible it will be necessary to ensure first the availability and cost of permeable materials and, secondly the ability for Local Planning Authorities to enforce new controls. Permeable paving is already becoming more readily available and at more affordable prices. We would anticipate that, were a policy requiring the use of more permeable surfacing to be adopted, the market would quickly respond with other products. With regard to enforceability, the Environment Agency has suggested that the permeability of hardstanding can be tested by simply pouring water onto it and assessing the results.

Communities and Local Government has commissioned a study into the cost and availability of permeable surfacing materials, in order to assess whether a “permeable paving only” policy would impose an undue financial burden on business. At the time of writing this report the recommendations of the study were not known, but on the assumption that it provides assurances that alternative materials are available at reasonable cost, we recommend that all references in the GPDO should in future be interpreted as permitting permeable hardstanding only.

The only exception to this stipulation concerns uses that could give rise to ground contamination, which is principally general industrial, mining and waste disposal uses. Thus the GPDO would need to specify that where the use concerned falls into any of these categories, the operator will be required to opt for non-permeable hardstanding where it is in the interests of pollution control.

### **Whether ‘permitted development’ rights to create flood defences could be extended particularly for utilities and statutory undertakers**

Only the Environment Agency presently has ‘permitted development’ rights in relation to flood defences, and these only allow them to modify existing flood defences, not to create new flood defences. The Environment Agency is not seeking an extension of these rights for the moment, but the situation is under review and changes may be sought in future. They are similarly opposed to utilities and statutory undertakers being given any rights to create flood defences, preferring that all such proposals go through the formal planning application process.

## **7.8 Environmental Impact Assessments**

The *Town and Country Planning (Environmental Impact Assessment) Regulations 1999* (the EIA Regulations) set out the procedures for ensuring that environmental effects of relevant developments are taken into consideration when planning applications are being considered. Developments that fall into either Schedule 1 of the regulations (mandatory) or Schedule 2 (subject to a positive “screening opinion” by the LPA) require the submission of an EIA. This effectively withdraws any permitted development rights that they would otherwise enjoy.<sup>36</sup>

<sup>36</sup> There are some exceptions to these provisions relating to Part 7, Class D of Part 8, Part 11, Class B of Part 12, Class F (a) of Part 17, Class A of Part 20, Class B of Part 20, and Class B of Part 21.

Schedules 1 and 2 describe in considerable detail the criteria for determining which developments require an EIA. However both Schedule 1 and 2 developments have clearly been conceived to apply to developments that are likely to have more than Level 1 impacts. By definition these ought not, according to our criteria, be treated as permitted.

Nevertheless, we have been alerted to one inconsistency in the regulations which is that an 'urban development project' in a National Park and AONB requires a screening opinion, but there is no explanation as what an 'urban development project' is. In theory it is suggested that even house extensions should obtain a "screening opinion" in a National Park before they can be built as 'permitted development' and this ought to be addressed when the regulations are next revised.

We do not believe that any of the recommendations in this report are subject to the criteria set out in Schedule 1 and 2.

## 7.9 The Habitats Regulations

Regulations 60 to 63 of the *Conservation (Natural Habitats, &c.) Regulations 1994*, (The Habitats Regulations) impose a condition on any permitted development that is likely to have a significant effect on a defined European Site – either alone or in combination with other plans or projects. This condition requires that the development shall not be begun until the developer has received the written approval of the local planning authority. If notification has not been provided there would be a breach of planning control and the planning authority could take enforcement action against the developer.

The onus rests with the developer to ascertain whether a development is lawful. Developers may apply to Natural England or the Countryside Council in Wales for an opinion on whether a proposed development would be likely to have a significant effect on a site covered by the regulations. Natural England forms an opinion as to whether the effect of the development would be significant and copies this to the Local Planning Authority. If Natural England or the Countryside Council considers the development would have a significant effect the local planning authority will expect to receive a request for its approval before the permitted development is carried out. If not the development may proceed as 'permitted development'

The Habitat Regulations apply to all types of 'permitted development' and provide for no exceptions. It is therefore considered that the changes to 'permitted development' rights recommended by our study would remain subject to the regulations, which do not therefore affect them.

## 7.10 Conclusions

Climate change and sustainability are at the heart of government planning policy, and their importance must not be underestimated. However, the

sustainability agenda has to be pursued against the need for speed and efficiency in the planning system, and a view needs to be taken as to whether certain types of development are “de minimus” in sustainability terms even when assessed cumulatively; and also whether some minor developments are best regulated via the building regulations or similar mechanism. The point of the GPDO is that it regulates minor developments that are considered unlikely to have wider environmental impacts.

In the area of flooding, the clear advice from the Environment Agency is that ‘permitted development’ rights need to be carefully controlled in flood risk areas. Critically this means taking away the ability to construct basements. The requirement for all hardstanding to be permeable except where there is a risk of pollutants leaching into the ground is a necessary tolerance to include in the GPDO.

The one proviso in relation to the recommendations of the Environment Agency is that for ‘permitted development’ rights to be varied according to whether or not a site lies in a flood risk area, it is necessary for developers to have access to flood risk maps which are absolutely clear and accurate. Currently, whilst the Environment Agency has flood risk maps available on its website, the maps do not contain the level of detail needed to allow developers to be absolutely certain whether their property is in a flood risk zone, particularly where their property lies at the boundary between two flood risk zones. More accessible and accurate flood risk maps are required. The Environment Agency also needs to provide users with a map of Strategic Flood Risk Assessment coverage across the country.

## 7.11 Recommendations

- that ‘permitted development’ rights for highly and more vulnerable uses lying in Flood Risk Zones 2 and 3 be limited to the Environment Agency’s definition of a minor development as anything less than 250sqm
- that basements be excluded from ‘permitted development’ in Flood Risk Zones 2 and 3 or where ground/surface water flood risk is identified in a Strategic Flood Risk Assessment
- all references to hardstanding as ‘permitted development’ should henceforward be taken as referring to permeable surfaces unless there is a clear need to control against potential groundwater pollution
- that “urban development project” be defined in the EIA Regulations
- that the Environment Agency be asked to review the quality of flood mapping on its website, and provide links to the Planning Portal and to Strategic Flood Risk Assessments.

# 8 Disability Access

## 8.1 Background

Since the introduction of the Disability Discrimination Act (DDA) in 1995, service providers have had the following duties imposed on them:

- since December 1996 it has been unlawful for service providers to treat disabled people less favourably than others for a reason related to their disability
- since 1 October 1999 service providers have had to make reasonable adjustments for disabled people in the way they provide their services
- since 1 October 2004 service providers have had to make reasonable adjustments to their premises to overcome physical barriers to access to ensure that as far as possible disabled customers are treated in the same way as non-disabled customers

The DDA defines a 'service' as one that is provided to the public whether free or in return for payment. Services include shops, libraries, restaurants, pubs, clubs, gyms, cinemas, theatres, swimming pools, hotels, hospitals, banks and small businesses. Physical features include steps, stairways, kerbs, outside surfaces and paving, parking areas, building entrances and exits, doors – inside and out – toilet and washing facilities, lighting and ventilation, lifts and escalators, floor coverings, signs, furniture and temporary or movable objects such as display racks.

As far as the planning implications of the DDA are concerned, the biggest change has occurred since 2004, when the legal requirement was placed on service providers to make reasonable adjustments to their premises to facilitate disabled access. The test of reasonableness takes account of the extent and cost of works required, the type of services being provided, the size and resources of the service being provided, the disruptive impact on the business to make the adjustment and the amount already spent on making adjustments. Failure to comply with the DDA risks a civil claim.

The DDA protects the rights of all disabled people including:

- blind and partially sighted people
- deaf and hearing-impaired people
- facially disfigured people
- people with long-term illnesses or hidden impairments such as arthritis, asthma, diabetes and Alzheimer's Disease

- people with learning disabilities such as dyslexia
- people with mental illness

It is not just wheelchair users who are protected, although compliance with the DDA in terms of the removal of physical barriers may be of most benefit to wheelchair users. It is worth noting that adjustments required as a result of the DDA will benefit people who are not disabled, such as parents with pushchairs, people with heavy shopping and older able-bodied people.

There are four types of reasonable adjustments service providers should consider making. These are:

- remove the feature
- alter it so that a disabled person can use the service
- provide a reasonable means of avoiding the feature
- provide a reasonable alternative method of making the service available

## 8.2 Current 'Permitted Development' Rights

Whilst there are no specific rights in the GPDO to allow service providers to carry out works to comply with the DDA, those classes of use which benefit from 'permitted development' rights are often able to carry out adjustments to their premises without the need for planning permission. These uses include:

- industry and warehouses – under Part 8 existing buildings can be extended within defined tolerances unless 'the external appearance of the premises of the undertaking concerned would be materially affected'. The fact that adjustments to buildings for disability access often relate to the main facade can result in conflict with this restriction and the need for a planning application
- local authorities – under Part 12 local authorities can erect "works or equipment" within defined limitations for the purpose of any function exercised by them. This can include the provision of disability access
- statutory undertakers – under Parts 17 and 18, railways, ports, water undertakings, gas suppliers, electricity undertakings, road transport undertakings, post offices and airports can undertake various works required in connection with their functions, though it is not always clear whether these rights extend to the provision of disability access

- for shops, banks, restaurants, public houses, offices, hotels, hospitals, nursing homes, churches, health centres, museums and galleries, cinemas, theatres, sports venues and swimming pools, there are no rights to construct external disability accesses

### 8.3 Current Volume of Minor Applications for Disability Accesses

The analysis of weekly lists shows how many applications were submitted for disability accesses in the 24 authorities in the 4 weeks that was sampled (table 10).

<b>Table 10: Applications for disability accesses</b>		
<b>Category of development</b>	<b>No of applications</b>	<b>% of minor applications</b>
Disability accesses	16	3.17
All minor applications	504	100.00

Disability accesses do not account for a high level of minor applications, which is to be expected, but the fact that such applications are routinely being submitted highlights the question of whether such applications are truly necessary and whether 'permitted development' rights could be framed for such developments..

### 8.4 Development Plan Policies

A number of local plans now have policies that address access for all. On the whole these policies are positive for the provision of access for all but are somewhat restrictive on how this should be achieved. The main areas of concern highlighted in the policies are the impact of any ramp system on the street scene and the impact this could have on pedestrian flows or the appearance of the building. The other main concern is the impact of the proposal on the fabric of the building and façade of the building. Therefore, whilst the policies are typically supportive there is a particular requirement for care to be taken in how this is achieved.

### 8.5 Views on the Current System and Possible Areas for Change

The Sounding Boards which explored town centres and institutions touched on disability access. The feedback from these Sounding Boards is set out in appendix 3.

A broad consensus emerged that 'permitted development' rights for DDA works to shops and institutions were appropriate provided that conservation areas, listed buildings and potentially AONBs were adequately protected. It was queried whether it was appropriate for another set of regulations to cover DDA works since they are already controlled by DDA, buildings regulations and codes of practice [though the reality is that including a DDA class in the GPDO would be an act of deregulation rather than adding an extra layer of regulation]. A point was made that allowing ramps as 'permitted development' could dissuade people from pursuing better internal options. It was suggested that disability access to shops could be included in shopfront proposals.

Development Control Managers did not generally touch on DDA, except to point out that shopfront applications may be used to ensure DDA compliance, and that this responsibility could be transferred, perhaps to building control.

Neither the *Nathaniel Lichfield Review* nor the *Heriot Watt Review* touched on disability access.

## 8.6 Options for Change

There is a clear case for updating the GPDO to afford all service providers rights to carry out external works to create disability accesses, subject to no adverse third party impacts. Appropriate limitations would need to be imposed to control against potential adverse visual impacts to the street scene or sensitive locations. The most appropriate means to achieve this would be by expanding Part 2 of the GPDO. Part 2 grants universal rights to undertake minor operations such as means of enclosure and new accesses, hence it would be logical to add a new Part granting rights to construct disability accesses to achieve compliance with the DDA.

*Designing for Accessibility* published by the Centre for Accessible Environments and the RIBA sets out in detail the types of physical alterations needed to achieve compliance. These are split into two broad types: those affecting the external environment; and those affecting building layout. The latter category affects only the interior of buildings and hence is not subject to planning permission (internal alterations to listed buildings will require listed building consent, a requirement which it is not proposed to amend). Alterations affecting the external environment are broadly of two types:

- freestanding additions
- alterations to buildings

## 8.7 Freestanding additions

This category includes those measures which can be taken to help disabled people alight at a building and reach the entrance without difficulty. They include:

- car parking – 5 per cent of total parking capacity at workplaces and 6 per cent at shopping, recreation and leisure facilities should be allocated for disabled users. At least one disabled bay should be provided within 50m of the front entrance. Disabled bays should be marked and signposted. Pedestrian routes from disabled bays to the building entrance should be level or with shallow gradients
- setting down points – these should be located as close as possible to the main entrance with a level footway linking the two. Where necessary there should be a dropped kerb with tactile paving
- routes – changes in level should be avoided where possible, and where unavoidable level landings should be provided at intervals, or external ramps provided on steep sections. The width of routes should be 1.8m reducing to 1.5m where passing places are provided. Routes should be defined by changes in texture and colour, and surface materials should be firm, durable and slip-resistant in all weather. Seating should be provided at intervals. Lighting should be carefully designed to avoid glare (low-level uplighters are not recommended). Signs should be carefully-located and clear
- street furniture – careful positioning of street furniture is important to avoid hazards. Clearly defined routes with textural changes, grouping of street furniture and effective lighting are needed. Bollards should be 1m high minimum and should not be linked with a chain or rope. Free-standing columns should be identified with colour banding

## 8.8 Alterations to buildings

This category includes measures necessary to allow disabled visitors to enter a building. They include:

- external ramps – where level access is not achievable ramps should be used. The maximum permissible gradient is 1:12 though longer ramps should not exceed 1:20. The total length of ramp (between level landings) should not exceed 10m and the total change in height should not exceed 0.5m. Where a change in height exceeds 0.3m steps, should be provided for ambulant people. Where the building entrance requires a ramp with a total change in height of more than 2m, a “short-rise” lift may be used as an alternative to a long, circuitous ramp. Ramps should be at least 1.5m wide with continuous handrails and a kerb at least 0.1m high on open sides. Adequate lighting is recommended

- external steps – steps are always needed where a ramp has a change in level of more than 0.3m. Straight flights are preferred to curves or doglegs. They should be a minimum of 1.2m wide, with handrails, and if more than 1.8m there should be a central handrail. There should be level landings top and bottom. Single isolated steps should be avoided
- handrails – continuous handrails are required for all ramps and steps. They should be between 0.9m and 1m high, rising to 1.1m adjoining landings. On school steps, a lower handrail 0.6m high is recommended. Handrails should be easy to grip and avoid the risk of clothing catching
- entrances – these should be well signed, and well related to the routes leading to the building. If the principal entrance cannot be utilised then an alternative entrance must be provided. A level area at least 1.5m by 1.5m must be provided in front of the entrance, ideally with a canopy over. Security/door entry systems should be accessible for disabled users. Doorways should ideally have a clear width of at least 1m, but never less than 0.775m. Manually-operated doors should be power-assisted. Doors should incorporate vision panels and appropriate handles/pulls. Lobbies must be sufficiently large to accommodate a wheelchair. Foyers should afford a clear view from outside wherever possible

## 8.9 Preferred Options

There is a compelling case to simplify the planning system for building owners seeking to achieve compliance with the DDA. The main difficulty in framing 'permitted development' rights is the fact that most principal entrances to buildings are by their nature on the front elevation, and hence the impact of disability accesses on the street scene and potentially on sensitive areas must be carefully assessed. There may be a need for a Prior Approvals procedure which would control the precise detail of the proposals whilst acknowledging that the principle of them is not in doubt.

A point which has been put to the authors of this report is that by freeing up the ability to install ramps and steps outside buildings may dissuade the owners of buildings from undertaking internal alterations which, although more costly, could create alternative and preferable provision for disabled people. The argument is that under the current system whereby planning applications are required in most cases for external ramps and steps, it is open to the planning authority to then negotiate a solution which focuses instead on internal alterations. There is however nothing in Designing for Accessibility which suggests that internal alterations are preferable to external alterations, or that external alterations provide an inferior means of access for disabled people. Therefore it is right that the planning system give as much freedom as possible to the owners of buildings to comply with the DDA, including the ability to install external ramps and steps provided their impact on the street scene is acceptable.

It is proposed that the following principles be applied:

- (i) the new rights would cover all freestanding additions including hard surfacing for disabled parking bays and setting-down points, installation of ticket-dispensing machines, hard surfaced routes for wheelchairs, and appropriate 'street furniture' such as lighting, litter bins, benches and bollards
- (ii) the new rights would cover external ramps and steps subject to a limit on the size and ground coverage of ramps to prevent excessive structures catering for large levels differences or multiple entrances
- (iii) alterations to entrances such as widened doorways, windows to foyers and the installation of canopies should be allowed, subject to a limit on the size of canopies
- (iv) in sensitive areas such as conservation areas and the grounds of listed buildings, consideration should be given to a Prior Approvals procedure for freestanding additions, ramps, steps and entrance alterations. It is not considered to apply the same controls in Areas of Outstanding Natural Beauty or National Parks since these are landscape designations, and the types of minor alterations being proposed are unlikely to significantly alter the impact that an existing building has on that landscape

## 8.10 Recommendations for Change

Freestanding additions within the curtilage of the building which is being accessed and which do not impinge on the public highway would be 'permitted development' subject to all hardstanding being porous, and parking bays and drop-off points being clearly signed and lined for disabled use.

Ramps and steps within the curtilage of the building which is being accessed and which do not impinge on the public highway would be 'permitted development' subject to a maximum of one set of ramps/steps per building frontage, a maximum change in levels using ramps/steps of 2m, a maximum total length of ramp (excluding landings) of 40m, and a maximum projection of ramps/steps from the building of 12m.

Entrance alterations would be 'permitted development' subject to any canopy not impinging on the public highway, a maximum canopy spread of 3 sq m, and a maximum canopy height of 3m. It is not considered that any limitation need be placed on the size to which doorways can be enlarged or the fenestration which can be added to allow views into foyers.

Prior Approval would be required for all DDA works in conservation areas and the grounds of listed buildings.

## Proposals for a new Part 2 Class E

External works by service providers to achieve compliance with the Disability Discrimination Act 1995 (or any subsequent re-enactment):

- freestanding additions:
  - all hardstanding to be porous
  - parking bays and drop-off points to be signed and lined for disabled use
  - new/altered “street furniture” to be DDA-compliant
- ramps and steps:
  - max one set of ramps/steps per building frontage
  - max 2m change in levels of ramps/steps
  - max total length of ramps (excluding landings) of 40m
  - max 12m projection of ramps/steps from building frontage
- entrance alterations:
  - max canopy spread of 3m
  - max canopy height of 3m
- sensitive areas:
  - Minor Development Certificate required for all DDA works in conservation areas and the grounds of listed buildings
- general limitation:
  - no works to impinge on the public highway

## 8.11 Estimated Potential Savings in Planning Application Numbers

A detailed examination of the planning applications in our weekly list analysis has allowed us to make an estimate of the savings that might result from the changes to the GPDO described above. Our sample of 504 minor applications contained 16 applications for disability accesses. If the proposals set out above were adopted in full, these applications would all become ‘permitted development’ since none of the sample related to conservation areas or listed buildings (had they done then a Minor Development Certificate would have been required).

Extrapolating these figures for England and Wales produces the predicted savings shown in table 11.

**Table 11: Predicted savings in applications for disability accesses**

	<b>Study Sample</b>	<b>England (2006/7)</b>	<b>Wales (2006/7)</b>	<b>England and Wales (2006/7)</b>
Total minor applications	504	151,100	12,861	163,961
% applications saved outright	3.17%	3.17%	3.17%	3.17%
No of applications saved outright	16	4,790	407	5,197

The number of applications in our sample is small, so the extrapolated savings nationally need to be treated with caution. Nevertheless it is clear that the introduction of 'permitted development' rights for disability accesses has the potential to deliver significant savings in application numbers, with resultant savings both for LPAs and for service providers seeking to comply with legislative requirements, and benefits for disabled people themselves in bringing forward disability access works sooner.

**Table 12: Disability access: summary of implications of recommendations**

RECOMMENDATION	IMPLICATIONS					
	ECONOMIC	ENVIRONMENTAL	POLICY	SOCIAL		
Part 2 Minor Operations: new Class D to give service providers the ability to carry out external works to comply with the Disability Discrimination Act 1995	<p>Reduces applicant costs in the preparation of planning applications</p> <p>Reduces LPA resources devoted to determining planning applications</p> <p>Reduced LPA fee income</p>	<p>Low/medium risk of adverse street scene impacts owing to the principal entrance to many buildings facing the public realm</p>	<p>Supports the aims of the Disability Discrimination Act</p>	<p>Contributes to the wellbeing of the disabled</p>	✓	✓

**LEGEND**

- ✓ - Positive impact
- - No impact
- ✗ - Negative impact

## 9 Retail and Town Centres

### 9.1 Definitions

The government's definition of town centre uses in PPS6 covers a very wide range of uses. For the purposes of this study, retail uses and town centre uses are defined as they are in the Use Classes Order, with classes A1 to A5 encompassing the full range of town centre activities in England:

**A1 Shops** – Shops, retail warehouses, hairdressers, undertakers, travel and ticket agencies, post offices, pet shops, sandwich bars, showrooms, domestic hire shops, dry cleaners and funeral directors.

**A2 Financial and professional services** – Banks, building societies, estate and employment agencies, professional and financial services and betting offices.

**A3 Restaurants and cafés** – For the sale of food and drink for consumption on the premises – restaurants, snack bars and cafes.

**A4 Drinking establishments** – Public houses, wine bars or other drinking establishments (but not at night clubs).

**A5 Hot food takeaways** – For the sale of hot food for consumption off the premises.

In Wales a single A3 Use combines England's Classes A3, A4 and A5.

### 9.2 Background

At first sight it appears there must be a significant number of minor developments in town centres that should warrant relaxation of control by granting them permitted development rights. Our analysis of LPA weekly lists shows that this area generates a relatively large proportion of all minor applications and they include many minor alterations to properties such as new shopfronts, ATMs, remodelled access arrangements, minor extensions, and changes to external areas.

However closer analysis of these applications highlights the wide variation between them whereby even small changes can have significant impacts on the town centre environment. It shows that defining permitted development rights for town centres on the basis of potential impact raises some complicated questions.

By their nature, town centres are likely to be intensively developed with different uses and potentially conflicting external impacts in close proximity

to one another. Furthermore many town centres are historic places, often additionally protected as Conservation Areas with an identity and character that is strongly cherished by a very broad range of community interests. What is acceptable to change and develop within each centre depends on a unique set of variables including the size of a property, adjoining occupiers and the development's purpose. We have not detected a strong lobby to reduce controls in town centres amongst our stakeholder consultations – as one commentator put it *“too much ‘permitted development’ erodes property values”*.

Perhaps therefore it is not so surprising that previous versions of the GPDO eschewed the challenge of designating categories of permitted development relating to them. Instead the task of regulating all change has been handed to the development management system which has developed a considerable expertise over time in managing and balancing each unique set of circumstances.

It is also important to note that by no means all uses within Class A of the GPDO take place within town centres. Individual and small parades of shops, pubs, restaurants etc are scattered throughout other areas, and changes to them need to be evaluated in the context of the uses that adjoin them. In addition the past 30 years has seen a proliferation in the number and size of out of centre retail developments, typically set back from the highway and surrounded by large areas of carparking and associated landscaping. Minor changes to such premises raise quite a different set of impact issues than those within a town centre.

The different combination of circumstances means that it is unlikely that there are major new areas now subject to planning control that could be relaxed by granting them 'permitted development' status. Nevertheless, our examination of the weekly lists and the ideas offered to us by stakeholders have raised a number of areas in which permitted development rights might be relaxed and we explore these below:

### 9.3 Current Permitted Development Rights

Retail and town centre uses enjoy no specific permitted development rights for altering or improving existing buildings or erecting new buildings.

The only physical changes that the GPDO permits for any of the town centre uses listed above are those under Part 2 that relate to minor operations involving boundary and access arrangements and painting. Specified categories of minor development in town centres are also permitted Under Parts 12-17 when undertaken by local authorities, Highways Agencies and other Statutory Undertakers. Otherwise any changes or improvements to premises that fall under Section 55's wide definition of development require a planning application.

The Entec review of Microgeneration for non-domestic properties has examined the impacts of various microgeneration technologies on retail premises and in town centres. If they are supported, Entec’s recommendations on appropriate impacts in these areas will provide a helpful reference for some categories of development considered here.

### 9.4 Current volume of minor Applications for retail and town centre uses

The analysis of weekly lists shows how many retail and other town centre planning applications were submitted in the 24 authorities in the 4 weeks that was sampled (Table 13).

**Table 13: Sampled applications for retail and town centre uses**

Category of development	No of applications	% of minor applications
A1 Retail	76	15.08
A2 Financial/professional Services	12	2.38
A3 Restaurants/cafes	6	1.19
A4 Pubs/bars	14	2.78
A5 Takeaways	0	–
Total	108	21.43
All minor applications	504	100.00

The sample is notable mainly for highlighting how many minor applications there are for A1 retail uses, around half of these being for façade changes such as new shop fronts, Automated Teller Machines and disability accesses. It is clear that if significant savings in application numbers are to be achieved, façade changes will be a key focus.

### 9.5 National policies

**PPS 6: Planning for Town Centres** explains the Government’s objective of promoting vital and viable town centres, by focusing growth in existing centres to strengthen and regenerate them. It requires planning authorities to:

- actively promote growth and manage change in town centres
- adopt a proactive, plan-led approach to planning for town centres, through regional and local planning

The system provides a balance that requires LPAs to implement government policy while respecting local context and pursuing their locally derived

strategies for raising the quality of centres. It is a system that is now well established and most LPAs, and many historic and civic groups, are with it and would be reluctant to lose these controls.

PPS 6 also reflects several wider Government objectives such as social inclusion, regeneration in run down areas, promotion of sustainable development patterns, and the promotion of economic growth.

The Welsh equivalent of PPS6 is TAN 4.

## 9.6 Development Plan Policies

Policies regarding extensions to retail premises are typically restrictive and try to limit the additional floor space provided to ensure any extension is a modest addition, which is ancillary to the main retail use. The policies are also concerned with the scale and appearance of the extension. The policies, on the whole, will support modest additions to retail premises provided it does not extend the retail sales area, does not impact on the character of the street scene and the design of the proposal is sympathetic to the existing building.

On the whole policies seek to allow the replacement of shop fronts subject to their respecting or improving the shop frontage and street scene. The key issue identified in policies are the design, appearance and materials used, together with accessibility. It is considered, however, that these requirements are likely to change nationally due to the varied shopping frontages across England and Wales and as such being impossible to set a national standard. There is concern regarding the introduction of roller shutters and security grilles and the impact this has on street scenes and safety.

In addition town centre management, now often undertaken by a Business Improvement District arrangement is playing an increasingly important role in fashioning town centres. The emphasis of the approach is partnership working through the use of guidance and encouragement rather than regulatory control.

Where they exist, Business Improvement Districts could, and indeed should, be closely involved in any development of local design guides or LDOs; however it seems unlikely that they would be in a position to take over the control of minor developments within town centres as this would raise conflicts of interest.

## 9.7 Views on the current system and possible areas for change

A *Sounding Board* was convened to explore attitudes to minor developments by retail and other Town Centre activities. The feedback received from the Sounding Board is set out in appendix 3.

The Sounding Board was attended by representatives of organisations representing retailers, business groups, town centre management, lawyers, architects, civic societies, amenity groups and local planning authorities.

A wide range of views was represented at the meeting reflecting the range of interests present. While there was no overwhelming call for a general loosening of regulation, a large number of suggestions were made as to possible areas where more relaxed controls might be explored. These particularly surrounded developments relating to ATMs, shopfronts, plant such as air conditioning units, new access to buildings in response to DDA legislation, outdoor smoking areas, minor alterations to buildings and temporary structures. While there was a general acknowledgement of the complexity of the issues raised, particularly in town centres that are also conservation areas, little clear consensus emerged around many of these issues. One significant exception to this lay in the provision of new outdoor shelters as smoking areas for pubs.

There was a general view that the siting and location of these can have significant impacts on adjoining receptors that licensing regulations cannot take into sufficient consideration. All such shelters need to be considered on their individual circumstances through a full planning application.

We also noted that industry representatives at the Sounding Board appeared as concerned about inconsistency in decision making between authorities as they were the requirement for too many planning applications. There were strong calls for clearer national guidance and positive policies that promote better quality town centre environments.

Many participants at the Sounding Board proposed some tightening of controls relating for example to statutory undertakers and other providers of street furniture in town centres which are designated Conservation Areas.

Development Control Managers were generally not enthusiastic about relaxing controls in town centres. Perhaps the largest support surrounded relaxing permitted development rights for ATMs although others, particularly in the larger cities, reported that the police sometimes objected to new ATMs in certain areas where street crime is a problem. Others mentioned concerns about badly sited ATMs creating congestion both for other pedestrians or by drivers parking their car carelessly while making a withdrawal. There was some support for relaxing controls for new shop fronts outside Conservation Areas, although other managers felt that this can seriously harm a parade of shops.

Neither the *Nathaniel Lichfield Review* nor the *Heriot Watt Review* considered town centre or retail uses in detail, presumably because they are not covered under the existing Orders either in England or Scotland.

We received some written responses. One, from the Federation of Small Businesses, raised concerns about the complexity of procedures and the lack of clarity about whether a particular development required consent, rather

than highlighting areas meriting deregulation. The call was for clearer guidelines.

The Home Office considers that external ATM facilities should not be treated as 'permitted development' because of possible concerns about the security of customers and people delivering cash where there is no protection from attack. The Home Office requires that the police be given the chance to comment on all freestanding and 'hole in the wall' ATMs, with the ability to recommend refusal if security risks are deemed to be too great and cannot satisfactorily be dealt with by redesign.

Tesco has suggested to us that extensions of up to 200m<sup>2</sup> to premises for bulk storage and dot.com facilities should be permitted on the basis that the additional floorspace cannot be used for retail sales. Tesco also suggests that external means of escape, repositioning of entrances and provision of cash machines (ATMs) should be permitted development.

## 9.8 Recommendations for change

We are recommending the creation of a new Part for the GPDO for retail and town centre uses. The new Part would cover three main areas.

### Façade changes

- alterations to existing shopfronts within the existing opening of the shopfront to be subject to a Minor Development Certificate (but excluding security shutters (grilles))
- installation of ATMs as hole in the wall devices to be subject to a Minor Development Certificate

In Conservation Areas new shopfronts and ATMs would continue to require a full planning application, so that the principle of the development can be addressed.

We believe there is a strong case to allow façade changes (replacement shopfronts, ATMs) to be dealt with as Minor Development Certificates outside conservation areas. Shopfront alterations form an important part of the continual process of town centre revitalisation and renewal. With other regulations governing access arrangements (Disability Discrimination Act) and the siting and appearance of advertisements, the changes that would be permitted would relate to the appearance of the shop unit. Design guidance would help reduce the necessity for the LPA to become involved. The requirement for an MDC would ensure that the ability of LPAs to maintain control over the design of shopfronts would be maintained; whilst the requirement for a full application in conservation areas would give LPAs the ability to reject a new shopfront on principle where the existing shopfront is deemed worthy of retention.

ATMs have proliferated over the past 30 years beyond their original association with banks, and have become common in petrol stations, convenience stores and as stand alone street furniture of a similar size to telephone booths. The requirement for an MDC would retain the opportunity for the police to comment on installations in areas where there is a high risk of street crime, and to insist in extreme circumstances that an ATM can only be installed internally and not externally. Further consultation with the police and bodies such as the British Security Industry Association and the GMB Union is required to firm up these proposals.

There would also be the opportunity via prior approval to ensure siting away from busy road crossings and residential properties. MDCs would only be applicable to hole-in-the-wall style ATMs not freestanding ATMs.

### Extensions and alterations

Extensions, and external alterations in the form of new door or window openings, shutters and other surface fittings, subject to:

- max 50 sq m of floorspace per building
- height no greater than 5m
- not within 2m of a boundary
- materials to match existing building
- not within the curtilage of a listed building
- not in front of an existing building
- new porous hardstandings up to 50 sq m
- no basements in Flood Risk Zones 2 and 3 or areas identified in a SFRA as being at risk of ground/surface water flooding

Unlike the existing 'permitted development' rights for industrial users, which do not allow development within 5m of a boundary, but do not place a limit on the height of extensions elsewhere provided that the height of the building being extended is not exceeded, it is proposed to take a different approach in relation to town centre uses. It is proposed that extensions be limited to single storey only up to a maximum height of 5m, but to also allow extensions to within 2m of common boundaries to reflect the fact that commercial uses in town centres are often tightly juxtaposed. A 5m minimum distance to the boundary might have the effect of making the proposed 'permitted development' allowance unusable for many businesses on small sites. A 2m minimum distance to the boundary will allow greater flexibility, whilst at the same time – in combination with the proposed height limitation and the requirement that all plant and machinery be subject to a Minor Development Certificate – protect the amenities of sensitive adjoining occupiers.

### Installation of apparatus

Plant and equipment should be subject to a Minor Development Certificate to control potentially adverse impacts such as noise and odour.

## Freestanding buildings

The construction of trolley stores subject to:

- not being within 20 metres of the boundary with a residential property
- not being more than 2.5 metres in height
- not being more than 20 sq m floor area

It is not proposed to create a class of 'permitted development' rights for the erection of new freestanding buildings (other than trolley stores as set out above, and bin stores as proposed in Chapter 14) on the basis that shops and restaurants (unlike many industrial or institutional facilities) generally operate out of a single building, and hence the savings likely to be achieved from allowing new buildings under 'permitted development' rights are likely to be very limited. Second, the erection of new buildings at out-of-town retail facilities could have implications for the government's 'town centres first' policy and hence should be scrutinised via a planning application. By ruling out the ability to erect new buildings under 'permitted development' rights, there is no necessity to limit ground coverage by buildings to 50 per cent which many shops already exceed.

## 9.9 Additional controls

In addition we believe there to be a strong case for removing some existing 'permitted development' rights relating to developments in built-up areas:

- new or replacement areas of hardstanding provided by LPAs under Part 12 or by other undertakers under Parts 13-17 to be constructed from permeable paving

Justification: as requested by the Environment Agency to ensure that 'permitted development' does not increase run-off into the drainage system. Further discussion with the Environment Agency is required to develop the details of this recommendation.

- Street Furniture within Conservation Areas to be brought under planning control provided by LPAs under Part 12 [or other undertakers Parts 13-17].

Justification: As proposed by the Nathaniel Lichfield Review, street furniture provides an important contribution to the special character of town centres in conservation areas. As such it has strong Level 3 and Level 4 impacts that merit giving the wider community an opportunity to have an input into their design and siting.

## 9.10 Estimated potential savings in planning application numbers

As noted above our sample of 504 minor applications contained 108 applications for town centre minor developments. If the proposals set out above were adopted in full, the savings shown in table 14 could be achieved. (The predicted savings exclude disability accesses to retail premises, which are summarised separately in table 11).

**Table 14: Predicted savings in applications for disability accesses**

	Study Sample	England (2006/7)	Wales (2006/7)	England and Wales (2006/7)
Total minor applications	504	151,100	12,861	163,961
% applications saved outright	2.78%	2.78%	2.78%	2.78%
No of applications saved outright	14	4,200	358	4,558
% applications converted to MDCs	8.73%	8.73%	8.73%	8.73%
No. of applications converted to MDCs	44	13,191	1,122	14,313

Modest savings in overall application numbers can be achieved by introducing a range of 'permitted development' rights for town centre uses. Much greater savings can be achieved by converting applications for shopfronts, ATMs and plant/equipment to Minor Development Certificates.

The additional controls we have proposed over paving and street furniture would generate additional applications, but we have no way of estimating likely numbers since such developments are not recorded statistically either locally or nationally. Our view is that the numbers of applications which would be generated by these changes would be low, but we have no hard evidence to back this view up.

## 9.11 Further recommendations

Another suggestion that we believe merits further consideration is for LPAs to be encouraged to draw up their own LDOs for new shopfronts, perhaps by making use of the design guidance many have already prepared. Until they have done this, one or a number of model national design guides might serve as a material consideration when a planning application is considered. This guidance would be superseded once an LDO tailored by the LPA to the local context came into effect.

Table 15: Retail and town centre uses: summary of Implications of recommendations

RECOMMENDATION	IMPLICATIONS					
	ECONOMIC	ENVIRONMENTAL	POLICY	SOCIAL		
New Part 43 for shops and other town centre uses to make it easier to implement façade changes, and make other changes and alterations	<p>✓</p> <p>Reduces application costs in the preparation of planning applications for properties in Part b1(b) of the use Class Order</p> <p>✓</p> <p>Reduced LPA case load</p> <p>✗</p> <p>Reduced LPA fee income</p>	<p>✗</p> <p>Some potential risk of adverse third party impacts. Possible concerns eg about unrestricted shop fronts assuaged by MDCs.</p>	<p>✓</p> <p>Supports draft PPS4 and Government deregulation agenda</p> <p>✓</p> <p>Supports better regulation by providing more clarity about what is pd.</p>	<p>✗</p> <p>Possible concern about installation of ATMs in high crime risk areas</p>		
Tighten up Parts 12-17 Development by Public Bodies to extend control over street furniture in town centre Conservation Areas.	<p>✓</p> <p>Promotes regeneration and PPS 6 objectives</p> <p>✗</p> <p>Additional application costs for statutory etc undertakers</p> <p>✗</p> <p>Higher LPA caseload</p>	<p>✓</p> <p>Significant environmental benefits through opportunity for Town Centre managers to control clutter.</p>	<p>✓</p> <p>As above</p> <p>✓</p> <p>Supports better regulation by providing more clarity about what is pd.</p>	<p>✓</p> <p>Provides the community with an opportunity to have an input into the design and siting of their town centres</p>		

**LEGEND**

- ✓ – Positive impact
- – No impact
- ✗ – Negative impact

# 10 Industry and Offices

## 10.1 Definitions

Offices, industry and storage are defined in the Use Classes Order as follows:

### **Class B1. Business**

Use for all or any of the following purpose:

- a) as an office other than a use within class A2 (financial and professional services)
- b) for research and development of products or processes, or
- c) for any light industrial process

### **Class B2. General Industrial**

### **Class B8. Storage or distribution**

## 10.2 Background

Part 8 of the GPDO confers 'permitted development' rights on industrial and warehouse developments. Part 8 covers both light and general industry, but does not explicitly include research and development, and excludes offices; warehousing (which is analogous to storage/distribution as defined in the Use Classes Order) was added in 1985. The scope of Part 8 appears to derive from earlier versions of the Use Classes Order when offices and research/development were categorised separately from light industry, and hence are excluded from Part 8. The fact that offices, research/development and light industry are grouped together in the Use Classes Order as "business" uses throws into sharp relief the inconsistency that grants 'permitted development' rights to industry but not to offices and arguably not to research and development.

When compared with other uses such as those relating to town centres or to institutions, 'permitted development' rights accorded to Industry are generous. This reflects longstanding land use planning policies which have sought to separate what are considered to be unneighbourly industrial activities from sensitive receptors such as town centres, residential uses or educational facilities. Planning controls, including the GPDO and its forebears relating to these areas, have reflected these policies by taking a more relaxed approach to them. The paradox is that many industrial uses are "non-conforming" ie located close to sensitive receptors yet the GPDO extends identical rights regardless of whether a potentially noxious factory is located on an industrial estate or adjacent to houses and schools, whilst conferring no rights on offices which by comparison are relatively benign uses.

## 10.3 Current Permitted Development Rights

There are four classes of permitted development within Part 8 (industry and warehousing):

Class A Extensions or Alterations to buildings. The main restrictions are:

- not to exceed the height of the original building
- volume not to exceed 25 per cent of original building (10 per cent in sensitive areas)
- floor space not to exceed 1,000m<sup>2</sup> (500m<sup>2</sup> in sensitive areas)
- not to materially affect the appearance of the premises
- not within 5m of the boundary
- no loss of parking or circulation

Class B Provision of plant, cables, pipes etc, roads or railways. The restrictions being:

- not to materially affect external appearance of the premises
- height not to exceed the greater of 15m or of machinery to be replaced

Class C Hard surfaces

Class D Deposit of waste on a site that was used for the purpose in 1948.

Part 2 of the GPDO relating to means of enclosure and access applies universally and therefore is applicable to offices, research/development, industry and warehouses.

## 10.4 Current volume of minor applications for industry and offices

The analysis of weekly lists shows how many planning applications for industry and offices were submitted in the 24 authorities in the 4 weeks that was sampled (table 16).

Table 16: Sampled applications for industry and offices		
Category of development	No of applications	% of minor applications
B1(a) Offices	25	4.96
B1(b) Research and Development	1	0.20
B1(c) Light Industrial	4	0.79
B2 General Industrial	22	4.37
B8 Storage and Distribution	2	0.40
Total	54	10.72
All minor applications	504	100.00

The two figures of note are those for office developments (which presently do not enjoy any 'permitted development' rights) and general industrial (which currently enjoy generous 'permitted development' rights). The greatest potential for making savings in application numbers is likely to be in the area of office minor developments, but the potential for refining 'permitted development' rights for general industry where third party impacts can be adequately controlled should not be ignored.

## 10.5 National policies

The government's guidance on industrial and commercial development is set out in PPG4. It was published in 1992 and will be replaced by a new Planning Policy Statement (PPS4) now out for consultation. The Government's key policy outcomes for economic development as stated in the consultation draft are to:

- i) raise the productivity of the UK economy
- ii) maximise job opportunities for all
- iii) improve the economic performance of all English regions and reduce the gap in economic growth rates between regions
- iv) deliver sustainable development, the key principles of which, including responding to climate change, are set out in Planning Policy Statement 12 and the annex to PPS1 on Climate Change
- v) build prosperous communities by improving the economic performance of cities, subregions and local areas, promoting regeneration and tackling deprivation

PPG4 places great emphasis on economic growth, and ensuring that this is integrated with environmental "good sense". Development control should adopt a positive approach to commercial development wherever possible.

The draft PPS 4 goes further. Full consideration should be given to the economic aspects of a planning proposal, alongside social and environmental aspects, to ensure that communities – and all sectors of those communities – have access to jobs and services as well as homes and an attractive environment. When considering development proposals, local planning authorities should:

- adopt an evidence-based approach to proposals which do not have the specific support of plan policies, for example, using relevant market and other economic information as well as environmental and social information and other relevant evidence in determining the application

- consider proposals favourably unless there is good reason to believe that the economic, social and/or environmental costs of development are likely to outweigh the benefits. Where development is in accordance with the plan it should normally be approved
- ensure they take full account of the longer term benefits, as well as the costs, of development

Such an approach lends support to the creation of 'permitted development' rights for commercial uses which can successfully coexist with residential uses.

PPS6 covers town centres, and hence offices, and offers an up-to-date view of this key area of government policy, having been published in 2005. LPAs are required to assess the need for new office floorspace over the development plan document period, and to relate this to the physical capacity of existing centres to accommodate new office development. Offices fall firmly within the government's 'town centre first' policy, hence any proposed 'permitted development' rights for offices need to factor in compliance with this policy thrust.

The Welsh equivalent of PPS 6 is TAN 4.

## 10.6 Development Plan Policies

These policies are generally supportive of extensions and redevelopment subject to the scale of the proposal and the retention of the employment use. The policies typically will allow the expansion of employment sites within the built up area subject to the normal material considerations of scale, size, appearance, impact on neighbours and traffic/noise generation. The policies are slightly more restrictive in rural areas, whereby only modest expansion within the existing site would be supported; this tolerance is further reduced in sensitive areas.

## 10.7 Views on the current system and possible areas for change

A specific *Sounding Board* for industry and offices was not convened, partly because of the existing generous rights in place for industry, and partly because the feedback from stakeholders was that there was little they wished to contribute in this area. Offices were touched on in the Retail and Town Centres Sounding Board, and as noted in chapter 7 there was no compelling argument advanced that shops and offices were disadvantaged by not having 'permitted development' rights, but equally there was acknowledgement that a range of modest rights made sense in areas such as minor alterations, disability access and air conditioning plant.

Given the deregulatory objective behind this assignment and the tenor of the representations to the Barker Review, the lack of input from industry may mean that operators do not consider 'permitted development' rights to be a

major source of difficulty in the planning system, or it may reflect the fact that industry has found it difficult to engage with the process. If the latter is the case, it may be that a review of this area that formed part of a wider review of planning policies relating to employment would provide a more obvious link to the Government's wider agenda for industry stakeholders.

*Development Control Managers* made a number of suggestions for changes to industrial 'permitted development' rights. Given that industry arguably already enjoys generous 'permitted development' rights it is perhaps surprising that suggestions focussed not on reducing rights for industry but rather on further potential relaxation:

- more generous 'permitted development' rights on industrial estates which don't abut residential areas
- plant, machinery and silos on long-established sites
- industrial premises within their own complex
- extend and simplify rights for industry and warehouses
- delete limitation relating to "material affect on external appearance" since this is hard to define and encourages LPAs to play safe too often

No suggestions were made for 'permitted development' rights for offices, which could indicate either that Development Control Managers consider that such rights are inappropriate, or may be symptomatic of the focus amongst planners on the current GPDO rather than potential new classes of 'permitted development' rights.

In contrast to the views expressed by Development Control Managers, the *Nathaniel Lichfield Review's* feedback from respondents was that 78 per cent felt that current industrial 'permitted development' rights were "about right", with an even split of opinion amongst the remaining 22 per cent as to whether existing rights were too tight or too relaxed. They concluded that although further relaxation of 'permitted development' rights for industry and warehousing might be argued to support economic policy aims, there was an increased risk of adverse impacts on adjoining land uses and traffic levels.

They noted but rejected a call for 'permitted development' rights for offices on the basis that offices are more likely to be located either in residential areas (where extensions could impact on residential amenity and traffic levels) or in town centres (where extensions could impact on town centre policy aims). They clarified that in their view "research and development" should be excluded from Part 8.

Their recommendations focused on deregulatory and clarificatory measures:

- clarify that 'material effect on external appearance' applies to the site as a whole and consider removing this limitation outside conservation areas and on premises not fronting a highway
- clarify how the curtilage boundary should be defined on industrial estates; and

- limit extensions under Class A by floorspace rather than by floorspace and volume

The *Heriot Watt Review* did not specifically address the issue of whether ‘permitted development’ rights for industry are too tight or too loose, or whether ‘permitted development’ rights should be extended to other commercial uses, but instead made the following recommendations:

- delete the reference to ‘materially affecting appearance’ on the grounds that it is contradictory, little used and could discourage routine maintenance
- remove the cumulative limitation on extensions of 25 per cent or 1,000 sq m above the original building, and instead allow extensions up to 50 per cent of site coverage
- height limitation to relate to existing rather than original building
- to guard against impacts on nearby homes, all development within 25m of a residential property should require consent
- ancillary commercial uses (other than trade counters) should benefit from ‘permitted development’ rights
- define whether plant and machinery includes air conditioning units, heating/boiler systems and external lighting
- planning permission should be required in all cases for the deposit of imported waste

We received written feedback from the Environment Agency expressing concern that pollution control efforts could be undermined by an extension of industrial ‘permitted development’ rights, particularly in relation to noise and dust issues. In relation to hardstanding the Environment Agency is supportive of porous materials being used provided this does not allow pollutants to leach into the ground.

## 10.8 Options for change

There are two key questions to address:

1. are existing Part 8 rights appropriate for industry and warehousing, or should they be relaxed/tightened in key areas?
2. should ‘permitted development’ rights be extended to offices and research/development, either by extending Part 8 or by introducing a new Part?

On the first question, the available evidence points to the existing ‘permitted development’ tolerances being set at the right level for industry and warehousing. There has been no call from industry to relax them; but equally no evidence from the Local Government Ombudsman or stakeholders of industrial extensions giving rise to adverse environmental impacts. There is however one area of identified inconsistency, relating to the fact that industrial and warehouse operators cannot erect new buildings. By contrast

schools and hospitals can erect new buildings. There appears no reason in principle why Part 8 could not include an allowance for new buildings, provided that:

- the allowance is set at a moderate level well below the 1,000 sq m allowance for extensions
- an overall limitation on ground coverage is introduced to ensure that new buildings do not proliferate unacceptably

However, there is evidence that the tolerances contained in Part 8 are not calibrated according to an “impacts based” approach. Furthermore, there is evidence that the tolerances are expressed in a way which can give rise to confusion, and difficulty of interpretation.

The areas where Part 8 may fail to provide impact-based limitations are:

- the limitation on development within 5 metres of a boundary takes no account of adjoining land uses. If the adjoining land use is residential then 5m may be insufficient to protect against noise from plant or overshadowing from a tall extension; but conversely in an industrial estate location 5m might be overly restrictive
- the limitation on development which materially affects the external appearance of the premises takes no account of whether an extension/alteration would face a highway or be located within a conservation area. Furthermore, it is contradictory, because an extension of up to 1,000 sq m (as allowed for by Part 8) will almost certainly materially affect the appearance of the building, so there is a sense in which Part 8 “gives with one hand and takes away with the other”

Part 8 can be confusing in two ways:

- the requirement to measure the cumulative size of all extensions added to an industrial site since 1948 is onerous and in many cases impossible to comply with. Cumulative volume measurements tend to create difficulties for occupiers, a fact identified in the Householder Development Consents Review
- the limitation on development which materially affects the external appearance of the premises is so subjective that it does not allow occupiers to determine definitively whether planning permission is required without first seeking confirmation from their LPA

There is considered to be a strong case to extend ‘permitted development’ rights to offices and research/development. PPG4 confirms that mixed commercial/residential areas are appropriate and indeed should be encouraged; and the Use Classes Order acknowledges that B1 uses (offices, research/development and light industry) are in planning terms interchangeable, and are clearly distinguished from unneighbourly Class B2 general industrial uses.

The reluctance of the Nathaniel Lichfield Review to recommend 'permitted development' rights for offices derived from a concern that such rights could cause unacceptable impacts in residential areas and town centres. Such a concern is legitimate in relation to town centres, where it is important that the GPDO should not undermine the 'town centres first' policy by allowing significant office extensions in unsustainable locations; though minor alterations should not be ruled out. (The same policy consideration does not apply to research and development uses).

It is less clear why there would be concern about minor alterations/extensions to offices and research/development premises impacting on neighbouring residents, provided that 'permitted development' rights are framed in an impact-based way to protect adjoining residents. The issue is surely the extent rather than principle of 'permitted development' rights. There should be no difficulty in framing rights which will not give rise to adverse environmental impacts or unacceptable levels of traffic. The emphasis should be on allowing occupiers to adapt and modernise their premises (as opposed to significantly expanding them).

## 10.9 Recommendations for change

For industry (both light and general) the changes to Part 8 should encompass:

- delete the test of 'material effect on external appearance', and replace with a test similar to that for householder development which restricts development facing a highway which could have an adverse Level 3 or Level 4 impact
- limit extensions by floorspace only (deleting the alternate test of cumulative percentage volume), and control the potential for overlarge extensions to small buildings by adding a limitation on overall ground coverage
- require a Minor Development Certificate for all plant and equipment on light industrial premises
- new allowance for freestanding buildings up to 100 sq m
- a limitation on ground coverage by buildings to 50 per cent, to ensure that the rights to erect new buildings do not result in an unacceptable proliferation of such buildings on large sites
- a limit on the amount and type of hardstanding which can be constructed

For research and development, confirm that Part 8 rights are applicable in full.

For offices, introduce a new Part to the GPDO giving limited rights to allow the adaptation of offices without conflicting with the 'town centres first' policy:

- max 50 sq m extensions per existing building
- plant and equipment to require a Minor Development Certificate
- max 50 sq m of hardstanding of permeable construction

The rights would not include the ability to erect new freestanding buildings (other than bin stores as proposed in Chapter 14) since offices are less likely to require additional buildings for operational purposes in contrast to, say, industrial and institutional users. By ruling out the ability to erect new buildings under 'permitted development' rights, there is no necessity to limit ground coverage by buildings to 50 per cent, which many offices will already exceed.

### Proposals for a Revised Part 8

#### Industrial, research/development and storage uses

- max 1,000 sq m floorspace extension per building (500 sq m in sensitive areas) up to max of 25 per cent extra floorspace
- height no greater than existing building, if within 10m of a boundary max height of 5m
- max 100 sq m per new building
- not within 5m of a boundary or facing a highway
- no loss of turning/manoeuvring space for vehicles
- materials to match existing building
- not within the curtilage of a listed building
- max 50 per cent ground coverage
- porous hardstanding up to 100 sq m (non-porous where risk of contamination)
- plant and equipment to require a Minor Development Certificate (except general industrial B2)
- no basements in Flood Risk Zones 2 and 3 or areas identified in a SFRA as being at risk of ground/surface water flooding

### Proposals for a new Part

#### Offices

- max 50 sq m extension per existing building up to 25 per cent extra floorspace
- height no greater than existing building, if within 10m of a boundary max height of 5m
- not within 5m of a boundary, or facing a highway
- materials to match existing building
- not within the curtilage of a listed building
- no loss of turning/manoeuvring space for vehicles
- porous hardstanding up to 50 sq m
- plant and equipment to require a Minor Development Certificate
- no basements in Flood Risk Zones 2 and 3 or areas identified in a SFRA as being at risk of ground/surface water flooding.

## 10.10 Estimated potential savings in planning application numbers

As noted above our sample of 504 minor applications contained 54 applications for industrial and office minor developments. If the proposals set out above were adopted in full, the savings shown in table 17 could be achieved. (The predicted savings exclude disability accesses to industrial and office premises, which are summarised separately in table 11).

<b>Table 17: Predicted savings in applications for industry and offices</b>				
	Study Sample	England (2006/7)	Wales (2006/7)	England and Wales (2006/7)
Total minor applications	504	151,100	12,861	163,961
% applications saved outright	1.39%	1.39%	1.39%	1.39%
No of applications saved outright	7	2,100	179	2,279
% applications converted to MDCs	1.19%	1.19%	1.19%	1.19%
No. of applications converted to MDCs	6	1,798	153	1,951

The potential savings in this area are not as great as for town centre uses, for two reasons: first, shopfronts and ATMs, which offer significant potential for savings in town centres, are not generally applicable to offices and industrial uses; and second, generous rights already exist for general industrial users such that the potential for saving further applications is limited. The low sample sizes mean that the projected savings shown in table 17 should be treated with caution.

**Table 18: Industry and offices: summary of implications of recommendations**

RECOMMENDATION	IMPLICATIONS					
	ECONOMIC	ENVIRONMENTAL	POLICY	SOCIAL		
Amend Part 8 to confirm that Part 8 rights are applicable to research and development uses	<p>✓</p> <p>Reduces application costs in the preparation of planning applications for properties in Part b1(b) of the use Class Order</p> <p>✓</p> <p>Reduced LPA case load</p> <p>X</p> <p>Reduced LPA fee income</p>	<p>A low potential risk of adverse third party impacts</p>	<p>✓</p> <p>Supports draft PPS4 and Government deregulation agenda</p>	<p>No impact</p>		O
Expand Part 8 to provide additional 'permitted development' rights for all industrial, research and development and storage uses	<p>✓</p> <p>As above</p> <p>X</p> <p>X</p>	<p>As above</p>	<p>X</p> <p>As above</p> <p>Supports better regulation by providing more clarity about what is pd</p>	<p>✓</p> <p>✓</p> <p>No impact</p>		O
New Part 42 for Offices to give limited rights to allow the adaptation of offices without conflicting with the 'town centres first' policy	<p>✓</p> <p>As above</p>	<p>A low potential risk of adverse third party impacts especially in town centres</p>	<p>X</p> <p>As above</p>	<p>✓</p> <p>No impact</p>		O

**LEGEND**  
 ✓ - Positive impact  
 O - No impact  
 X - Negative impact

# 11 Institutions and Leisure Uses

## 11.1 Definitions

For the purposes of this study, institutions and residential institutions are defined as they are in the Use Classes Order. Classes C2 and D1 encompass a broad range of communal functions:

- residential schools and colleges
- hospitals and convalescent/nursing homes
- places of worship, church halls
- clinics, health centres, crèches, day nurseries, consulting rooms
- museums, public halls, libraries, art galleries, exhibition halls
- schools, training centres

C1 uses (hotels, boarding and guest houses, including sui generis hostels) are covered as are D2 uses including:

- cinemas, music and concert halls
- dance halls, sports hall, swimming baths, skating rinks, gymnasiums
- Indoor and outdoor sports and leisure uses, bingo halls, casinos
- theatres, nightclubs

## 11.2 Background

The functions examined in this chapter are linked by the fact that they are all communal functions. Residential functions such as hotels, hospitals, nursing homes and halls of residence are covered, as are non-residential functions. Institutions as defined by the Use Classes Order are commonly within the public or voluntary sectors, though this is not exclusively the case, with nursing homes and day nurseries frequently run as businesses whilst private schools and hospitals are also included in the definition of institution. Hotels and the majority of leisure uses fall within the private sector but are nonetheless included as communal functions.

It is interesting to note the inconsistent way in which the current GPDO grants 'permitted development' rights for this group of functions. School, colleges and universities benefit from 'permitted development' rights whether residential or not, as do hospitals (Part 12). State schools, council-run care homes and other council buildings benefit from a different set of 'permitted development' rights under Class 12. The remainder of the uses do not benefit from any 'permitted development' rights at all.

As with the lack of 'permitted development' rights for town centre functions, it is unclear why 'permitted development' rights for institutions are so patchy. It is paradoxical that a potentially noxious use such as a factory benefits from generous 'permitted development' rights whereas a benign function serving the whole community, such as a health centre, does not. The likely explanation is that the GPDO originally envisaged interested users being segregated from residential areas but the reality is that this is often not the case. Given increasing life expectancy and changing working habits, which have made nursing homes and day nurseries increasingly common, it could be concluded that the GPDO is becoming less relevant to the changing planning pressures facing England and Wales.

In relation to leisure uses, an area that the Local Government Ombudsman has flagged as raising a large number of complaints is the ability under Part 12 for LPAs to construct equipment on land for the purpose of any function exercised by them. Where this right is extended to potentially noisy leisure uses such as skateboard parks, BMX tracks or play equipment in residential areas, many residents feel that they should have the right to be consulted. This issue is addressed in this chapter.

### 11.3 Current Permitted Development Rights

Part 32 of the GPDO confers the right to erect new buildings on existing sites with a predominant educational or medical use subject to:

- the total floorspace of the original buildings not being exceeded by more than 10 per cent
- the total size of new buildings not exceeding 250 cu m
- new buildings not being erected within 20 metres of a site boundary
- playing fields not being built on
- in conservation areas, AONBs etc the materials used being similar to the original buildings

These rights present a number of problems:

- the ability of a large hospital or university to know with certainty which buildings were original, particularly given the GPDO definition of "original" as anything which existed on 1 July 1948
- the total allowance for all new buildings is 250 cu m (approximately equivalent to four double garages) which is minimal in the context of a large hospital or university
- there is no allowance to alter existing buildings or to make other changes such as car parking
- the minimum distance to site boundaries of 20 metres may be overly cautious given that the equivalent limitation for industrial premises is 5 metres
- the requirement for materials to be similar to the original buildings in conservation areas creates potential difficulties on large hospital and university sites

Part 12 of the GPDO confers the right on local authorities to erect or alter small ancillary buildings for the purpose of any function exercised by them (except as a statutory undertaker) subject to:

- a maximum height of 4m
- maximum size of 200 cu m

These rights present problems of their own:

- buildings larger than 200 cu m cannot be altered in any way
- there is no minimum set distance to site boundaries
- the height restriction may be unduly restrictive for operational requirements
- it is not clear whether boundary treatment is included
- there is no control over ancillary buildings within the curtilage of listed buildings
- is a classroom an ancillary or a primary building?
- it is illogical that state schools can choose which set of 'permitted development' rights to adhere to, and as a result benefit from more generous rights than private schools

Part 12 of the GPDO confers the right on local authorities to erect equipment for the purposes of any function exercised by them on that land. This can include the right to create play areas and skateboard parks.

All institutions derive 'permitted development' rights from Parts 2 and 4 of the GPDO, which give rights respectively for minor operations (fences, accesses) and temporary buildings and uses (buildings and plant required during operations, 28/14 day temporary uses).

## 11.4 Current Volume of Minor Applications for Institutions and Leisure Uses

The analysis of weekly lists shows how many institutional and leisure applications were submitted in the 24 authorities in the 4 weeks that was sampled (table 19).

The figures illustrate the potential for savings in classes with no 'permitted development' rights currently, such as non-residential institutions and assembly/leisure. Even in classes with current 'permitted development' rights, such as schools, the potential exists to make savings, which may be a reflection of the inadequate 'permitted development' rights presently available to schools.

**Table 19: Sampled applications for institutions and leisure uses**

Category of development	No of applications	% of minor applications
C1 Hotels and guesthouses	6	1.19
C2 Colleges and universities	5	0.90
C2 Hospitals	4	0.99
C2 Nursing homes	3	0.59
D1 Non-residential institutions	27	5.36
C2/D1 Schools	26	5.16
D2 Assembly and leisure	10	1.98
Total	81	16.05
All minor applications	504	100.00

## 11.5 National Policies

PPG 17 states the importance of open space and recreational land to delivering broader Government objectives such as urban renaissance, rural renewal, community cohesion and health and well being. It sets out the protection that should be given to playing fields and that farm diversification schemes involving sports and recreational activities should be supported. It also states that protection should be given to more sensitive areas such as AONBs although recreational and sport activities in these areas should be supported where they contribute to the overall objective of conservation of the natural beauty of the landscape. It also sets out objectives for development with open spaces and planning for new open spaces and sporting/recreational facilities.

The Government's *Good Practice Guide in Planning for Tourism* acknowledges that tourism makes a major contribution to the national economy and to the prosperity of many cities, towns and rural areas. It also acknowledges that it can act as a positive catalyst for environmental protection as its success depends on the quality of the environment. This PPG sets out the government's objectives that tourism should flourish in response to the market whilst respecting the environment, which attracts visitors. The central objective is to achieve sustainable development, which has a positive impact on both the environment and the economy.

The Welsh equivalents of PPG17 and Good Practice Guide on Planning for Tourism are TAN 6 and TAN 13.

## 11.6 Development Plan Policies

This covers a range of topics from schools to day nurseries and there are often separate policies for different institutional uses. However, on the whole

the development plan policies are supportive of the extension of existing facilities. This unsurprisingly is caveated with the proposal having no impact on amenities, the character and appearance of the area, traffic implications or other material considerations. Traffic is generally one of the most sensitive considerations when it comes to extending schools, day nurseries, hospitals or health centres.

## 11.7 Views on the Current System

A *Sounding Board* was convened to explore attitudes to minor developments by institutions. The feedback received from the Sounding Board is set out in appendix 3.

The *Sounding Board* was attended by representatives of local education authorities and the Department of Health, practitioners in the fields of town planning, building control and chartered surveying, and amenity groups.

The broad consensus was that the 'permitted development' rights for institutions are unduly restrictive, even for state schools which enjoy the largest range of rights (this conclusion is borne out by the number of applications for minor works to schools noted above). The 20m minimum distance to boundaries was highlighted as an example of over restrictiveness. There was a call for schools and hospitals to be allowed to erect storage sheds and toilet blocks etc provided they are not sited too close to a boundary. Limited 'permitted development' rights for mobile/temporary classrooms were mooted. In relation to large hospital and university sites a case was made for far greater freedom for such institutions to be "self-governing" in relation to planning requirements. New 'permitted development' rights for nursing homes were supported.

It was pointed out that care needed to be exercised where institutions contained listed buildings or were located in conservation areas. The issue of multi use sites and in particular the potential for evening activities to cause nuisance was also highlighted. It was emphasised by some that 'permitted development' rights for institutions should not allow pupil numbers in schools to increase nor the number of beds in nursing homes. 'Permitted development' rights for day nurseries were not universally supported.

Development Control Managers' verbal feedback shows that institutional uses are not high on the agenda of most local authorities, but where comments were made in this area they focused on greater flexibility for schools, colleges, and especially campus universities. There was no suggestion that 'permitted development' rights for institutions need tightening.

The *Nathaniel Lichfield Review* identified a number of anomalies in Parts 12 and 32 (many of which are highlighted above) as well as identifying the overlap between Parts 12 and 32. They made several recommendations in relation to Part 12:

- relocate school-related development to a new Part of the GPDO dealing with schools only
- clarify that means of enclosure up to 4 metres high are not permitted by Part 12
- make Part 12 rights conditional on avoiding adverse impacts on streetscape, as assessed against a Street Management Code
- if schools are retained within Part 12, clarify that permitted development rights apply to County Councils

In relation to Part 32 they made the following recommendations:

- relocate school-related development from Part 32 to a new Part of the GPDO dealing specifically with schools
- increase size limits of buildings within university, college and hospital sites to 300 sq m by floorspace (or 1,000 cu m by volume) subject to a limit of 10 per cent of the original floorspace, a specified distance from site boundaries and not within conservation areas
- amend the interpretation of playing fields in this Part

The *Heriot Watt Review* recommended no change to the 'permitted development' rights for local authorities to erect ancillary buildings, the limitations of which are the same in Scotland as in Part 12 in England and Wales. There appears to be no Scottish equivalent to Part 32.

Written feedback from *hospital estate managers* has flagged up the planning difficulties they face. Their main frustration is having to apply for permission for minor changes not visible outside the hospital eg new doors, windows, façade changes, extensions within inner courtyards. The 250 cu m limit is identified as unduly restrictive and 2,500 cu m suggested instead.

Case law indicates that development which is completely hidden from outside view can be regarded as *de minimus* and hence be exempt from the requirement for planning permission. The suggested 2,500 cu m maximum figure appears fanciful given that on sites subject to external constraints a development of such scale could have significant third party impacts.

Written feedback from a university professor advocated giving universities a free hand within their campus, possibly subject to locally-agreed parameters such as through a Local Development Order.

The Local Government Ombudsman points to the many complaints received in relation to skateboard parks and BMX tracks installed by local authorities using Part 12 rights. Such developments are alleged by neighbours to result in noise disturbance, antisocial behaviour and loss of value to properties. Complainants feel that such developments should not be 'permitted development' and that they should have the right to comment on them first. In some cases it appears that schemes went ahead under 'permitted development' rights even when Councils were aware that neighbours objected.

Bourne Leisure, which operates a number of hotels in England and Wales, has suggested two possible revisions to the GPDO:

- rights to make minor alterations to listed hotels
- rights to erect marquees for longer periods of time than allowed by Part 4 of the GPDO

Neither suggestion is supported by the authors of this report. Relaxing rights to alter listed buildings could have impacts for the physical structure of important historic buildings. Such changes must remain under planning control. Marquees are temporary structures and hence may be erected for up to 28 days under Part 4 rights. As a matter of principle temporary buildings should not in our view be accorded any more “permanent” rights than this.

## 11.8 Options for Change

The fundamental criticism of the current GPDO is that it can deny institutions the ability to carry out minor developments that have no adverse impacts on neighbours, the street scene or sensitive areas. Many institutions lack any form of ‘permitted development’ rights, thereby making the process of updating and adapting buildings, to ensure they are fit for purpose and compliant with current legislation, onerous. Even those institutions which benefit from ‘permitted development’ rights, such as universities and hospitals, report that the current limits are set so low as to be of little real use. The only institution which arguably has adequate ‘permitted development’ rights are state schools, but as noted above this sector still generates a significant number of minor planning applications, suggesting that the current Part 12 limitations may not be correctly set.

There appears a compelling case to reform Part 32 into a wider class which grants a range of ‘permitted development’ rights to different types of institutions. To clarify the confusion between Parts 12 and 32, local authority institutions should be removed from Part 12 and brought within Part 32. The new rights should be expressed as simply as possible. Four fundamental principles would underpin this enlarged Part:

- the new rights should encompass operational needs but not allow expansion of the institution in question. The addition of new wards to hospitals, new classrooms to schools and new guestrooms to hotels raises wider potential impacts such as noise, traffic and local and national policy conflicts, and will normally be dealt with via a formal planning application or equivalent mechanism
- the same rights will not be applicable to every type of institution. For institutions which occupy large multi-building sites it is appropriate to consider more generous rights than smaller institutions which are more likely to occupy a single building

- the rights should avoid where possible reference to total size of original building(s) or cumulative floorspace/volume across a whole site because of the difficulties this gives institutions in calculating their available rights. It is preferable to define an appropriate level of development *per building* over and above the floorspace of that building as originally constructed
- the rights should not include provision for the siting of temporary buildings such as classrooms, because the implications of increased pupil numbers and the appropriateness of long term temporary accommodation should be examined through the planning process

In relation to Part 12 rights which are used for the purposes of installing noisy play equipment for children, there can be little doubt that the range of impacts identified by complainants illustrate that adverse third party impacts are a common consequence of installing play facilities close to houses. As such the right under Part 12 to install such equipment appears to be clearly in conflict with the impacts test which is at the heart of this review of the GPDO. There is therefore a strong case for tightening up 'permitted development' rights in this area.

## 11.9 Recommendations

Universities, colleges and hospitals have the strongest case for a relaxation of 'permitted development' rights where they occupy substantial sites. Their rights could legitimately include the erection of new buildings and the extension of existing buildings. The suggested limitation is 100 sq m per existing building and 100 sq m if a new building is needed. A height limit should be applied; in the case of extensions to existing buildings, it is appropriate that the height be limited to that of the existing building; but where new buildings are proposed, it would be inappropriate to allow them to be built automatically to the same height as existing buildings, as there may be parts of a site where external factors dictate that low rise buildings only should be built. Hence a height restriction of 5m is proposed.

Schools often have a range of buildings albeit on smaller sites than universities (though specialist and private schools may occupy a single converted building such as a former dwellinghouse). It is considered appropriate to give schools rights to erect new buildings although with stricter size limitations than universities and hospitals. The suggested limitation is 50 sq m per existing building and 50 sq m if a new building is needed. It is appropriate to limit the pupil capacity of schools when carrying out extensions, since a rise in pupil numbers can adversely affect neighbours, eg through increased traffic.

For other types of institutions which are less likely to occupy multi-building sites (though exhibition halls and outdoor sports facilities may be an exception) it is appropriate to grant rights only for the alteration of existing buildings. Again 50 sq m is suggested as the limit on each building.

Proposals for the installation of leisure-related equipment should be subject to the planning process and removed from Part 12.

### Proposals for a revised Part 12

To exclude from Class A(a) all “small ancillary buildings” falling within Use Classes C2, D1 and D2 and transfer these to Part 32.

### Proposals for a revised Part 32

- max 100 sq m floorspace (50 sq m for schools) and max height of 5 m for new buildings
- max 100 sq m floorspace (50 sq m for schools) for extensions and alterations to buildings up to a max of 25 per cent additional floorspace at the size of the original building
- extensions to be no higher than existing building, and max of 5 m of within 10 m of a boundary
- new buildings and extensions to be no closer than 5 m to any boundary and no closer to a highway than any existing building
- for schools, pupil capacity not to be increased
- not on playingfields
- not within the curtilage of a listed building
- max 50 per cent ground coverage
- materials to match
- new porous hardstanding up to 50 sq m
- no basements in Flood Risk Zones 2 and 3 or ground/surface water flood risk areas identified in SFRA's

### Proposals for a new Part

#### Institutions

- max 50 sq m floorspace and max height of 5 m for new buildings
- max 50 sq m floorspace for extensions and alterations to buildings up to a max of 25 per cent additional floorspace
- extensions to be no higher than existing building, and max 5 m high if within 10 m of boundary
- new buildings and extensions to be no closer than 5 m to any boundary and no closer to a highway than any existing building
- not within curtilage of a listed building
- max 50 per cent ground coverage
- no loss of turning/manoeuvring space for vehicles
- materials to match
- new porous hardstanding up to 50 sq m
- no basements in Flood Risk Zones 2 and 3 or ground/surface water flood risk areas identified in SFRA's

#### Additional controls

We believe there to be a strong case for removing existing ‘permitted development’ rights for new skateboard parks and playgrounds by specifically excluding the installation of new leisure-related equipment from Part 12 of the GPDO. This would take away the pressure on LPAs to try to deal with such developments without going through the formal planning

process. We believe that such a change is justified by the frequent complaints received by the Local Government Ombudsman about newly installed play areas near to dwellings upon which there has been no public consultation.

### 11.10 Estimated potential savings in planning application numbers

As noted above our sample of 504 minor applications contained 81 applications for institutional and leisure minor developments. If the proposals set out above were adopted in full, the savings shown in table 20 could be achieved. (The predicted savings exclude disability accesses to institutional and leisure premises, which are summarised separately in table 11).

**Table 17: Predicted savings in applications for industry and offices**

	Study Sample	England (2006/7)	Wales (2006/7)	England and Wales (2006/7)
Total minor applications	504	151,100	12,861	163,961
% applications saved outright	2.18%	2.18%	2.18%	2.18%
No of applications saved outright	11	3,294	280	3,574
% applications converted to MDCs	0.59%	0.59%	0.59%	0.59%
No. of applications converted to MDCs	3	891	76	967

As with the projected offices and industry savings, the small sample sizes for “saved” applications mean that the projections for institutions and leisure should be treated with a degree of caution. Nevertheless the potential to reduce application numbers by introducing a range of ‘permitted development’ rights as outlined above is clearly demonstrated.

The suggested tightening up of ‘permitted development’ rights for skateboard parks etc would lead to additional planning applications, but in our view the numbers of such applications would be minimal and unlikely to impact significantly on LPA workloads.

## 11.11 Wider planning freedom for larger institutions

The 'permitted development' rights recommended above are judged to give universities and hospitals the maximum possible flexibility to manage and adapt their buildings to changing operational needs, without allowing expansion which could give rise to significant external impacts such as increased traffic, noise etc.

University and hospital representatives have put forward a strongly argued case for greater freedom to manage and develop their sites to meet changing educational and healthcare needs. Such freedoms are particularly sought on large campus-style sites. The case is put that large education and healthcare establishments meet a clear community need and are funded largely by government funding. In such circumstances there should be freedom accorded to these institutions which would not be appropriate for, say, retail or commercial developments, which do not fulfil the same community function.

Such freedom goes beyond what can be achieved via a relaxation of 'permitted development' rights. The General Permitted Development Order grants a range of limited rights which are impact-based and are applicable to all locations across the country. The GPDO cannot grant substantial development rights aimed at a few specific sites. Large-scale expansion by universities and hospitals requires public scrutiny within a plan-led system. The question is whether the planning application process is the best and most appropriate way to deal with such developments, or whether an alternative approach is available which would allow public comment and scrutiny whilst affording universities and hospitals the freedom and flexibility to plan ahead.

Local Development Orders are considered one potential solution to the wider freedoms sought. This issue is addressed in detail in chapter 5.

**Table 21: Institutions and leisure uses: summary of implications and recommendations**

RECOMMENDATION	IMPLICATIONS						
	ECONOMIC	ENVIRONMENTAL	POLICY	SOCIAL			
Remove schools and other local authority institutions from Part 12	O	Reduces the risk of poorly sited small ancillary buildings in CAs or close to LBs	Removes confusion between Parts 12 and 32	Equalises the treatment of state and private schools	✓		✓
Expand Part 32 to give greater rights to universities and hospitals	Reduces applicant costs in the preparation of planning applications Reduces LPA resources devoted to determining applications Reduced LPA fee income	✓ Low potential risk of adverse third party impacts	Supports government funding programmes	Supports the provision of education and healthcare in the community	✓		✓
Expand Part 32 to give greater rights to schools	As above	As above	As above	Supports the provision of education in the community	✓		✓

RECOMMENDATION	IMPLICATIONS					
	ECONOMIC	ENVIRONMENTAL	POLICY	SOCIAL		
Expand Part 32 to give greater rights to other institutions, hotels and leisure uses	As above Supports the tourism and leisure industries	As above	Underpins support for working mothers and the elderly Supports government initiatives to promote tourism and healthier lifestyles	Supports the provision of nursery places and nursing home accommodation Contributes to health and cultural wellbeing	✓ ✓	✓ ✓
Tighten Part 12 to extend control over new equipped playgrounds, skateboard parks, BMX tracks and other similar recreational activities	Additional application costs for local authorities Higher LPA caseload	Significant potential environmental benefits to affected third parties	Could inhibit the government's drive to promote healthier lifestyles	Potential to reduce the recreational facilities available to local children	✓	X X

RECOMMENDATION	IMPLICATIONS					
	ECONOMIC	ENVIRONMENTAL	POLICY	SOCIAL		
Encourage LPAs to promote Local Development Orders for universities and hospitals	<p>Reduces applicant costs in the preparation of planning applications</p> <p>Reduces LPA resources devoted to determining applications</p> <p>Reduced LPA fee income</p> <p>Increased LPA resources required to prepare LDOs</p>	<p>Promotes higher quality development through design codes and better potential long term mitigation of impacts</p> <p>Low potential risk of adverse third party impacts</p>	Supports the promulgation of LDOs as envisaged in 2004 Act	Education and healthcare users better provided for Local residents given certainty over university/hospital plans	✓	✓
Government to fund pilot Local development Orders	<p>Cost to government</p> <p>Financial benefit to LPAs</p>	As above	As above	As above	✓	✓

**LEGEND**

- ✓ - Positive impact
- O - No impact
- X - Negative impact

# 12 Rural Areas

## 12.1 Definitions

For the purposes of this study, rural development covers all those uses considered most appropriate in rural areas, including agriculture, forestry, equestrianism and tourism. Agriculture and forestry are as defined in the Planning Act; neither needs planning permission and neither is included in the Use Classes Order. Equestrianism is regarded in most instances as a recreational/commercial use rather than an agricultural use and requires planning permission. It is not covered by the Use Classes Order. Rural tourism is defined as including camping and caravanning sites, both of which are classed as development, and neither of which are covered by the Use Classes Order.

## 12.2 Background

For the purposes of this chapter we have grouped together those uses which utilise open, usually rural land, as a resource, whether for growing produce, keeping and breeding recreational animals, or overnight accommodation for the purposed of tourism. Because farming traditionally benefits from generous 'permitted development' rights we have focused on farm diversification schemes when looking at agriculture.

Farm diversification schemes often involve the re-use of former agricultural buildings for uses that are able to operate alongside the existing working farm. Naturally there are a variety of uses including B1 (light industrial), B8 (storage and distribution) and C1 (tourist accommodation) that can be accommodated within former agricultural buildings; although the type, material and construction of the building is likely to dictate to what use the building is put. It is important to bear in mind the policy context within which farm diversification should be considered. There is a national drive to allow development that contributes to the rural economy and to allow farms to diversify in order that they remain competitive.

With regard to equestrianism, this is a use that has grown in popularity in recent years and as such, there is greater demand for land to be used as paddocks for the keeping of horses for recreational purposes. The use of land purely for the grazing of horses is classified as agricultural according to case law, but in order to qualify as agricultural no feed can be brought on to site and no stabling provided. The vast majority of equestrian uses do not fall within this category and hence are classified as recreational. There are no 'permitted development' rights allowing a change of use from agricultural use to equestrian recreation, and no 'permitted development' rights to erect equestrian buildings.

Given the gradual evolution of rural practices towards more recreational purposes, it could be concluded that the GPDO is becoming less relevant to the changing planning pressures facing rural England and Wales.

## 12.3 Current Permitted Development Rights

Agricultural units currently benefit from 'permitted development' rights for various agricultural buildings and operations. These rights are set out in Part 6 of the GPDO which is split into three different classes, two of which confer different rights depending on the size of the agricultural holding and the third allowing mineral working for agricultural purposes.

**Class A** confers permitted development rights for units of 5ha or more to erect, extend or alter buildings and to undertake any excavation or engineering operations, which are reasonably necessary for the purposes of agriculture within that unit, subject to:

- the development is not carried out on a separate parcel of land forming part of the unit which is less than 1ha
- the development does not result in the extension or alteration of a dwelling
- the building is for agricultural purposes
- any works or structure (other than a fence) for accommodating livestock or any plant or machinery arising from engineering operations or any building erected or extended not exceeding 465m<sup>2</sup>
- the height of any building, structure or works within 3km of the perimeter of an aerodrome not exceeding 3m in height
- the height of any building, structure or works not within 3km of the perimeter of an aerodrome not exceeding 12m in height
- not being within 25m of a trunk or classified road
- any building or excavation or structure used for the accommodation of livestock or storage of slurry or sewage sludge shall not be within 400m of a protected building.

There are also a number of conditions that need to be met in order for development to be carried out under Class A. The key condition is that the developer should apply to the local planning authority for determination as to whether prior approval is required. This is known as an agricultural notification and is further described in section 6. However, in brief it gives the local planning authority 28 days to assess whether the siting, design and appearance of the proposal is acceptable or whether further information is required. If no response is received within 28 days, the developer can proceed with the development. However if prior approval is required, further details on design siting and appearance must be submitted by the developer and the local planning authority has an additional 28 days in which to make a decision.

**Class B** works in a similar vein to Class A although it is less permissive. This is principally because it relates to agricultural holdings of not less than 0.4ha but not greater than 5ha in area. Class B allows:

- the extension or alteration of an agricultural building
- the installation of additional or replacement plant or machinery
- the provision/rearrangement/replacement of a sewer, main, pipe, cable or other apparatus
- the provision, rearrangement or replacement of a private way
- the provision of a hard surface
- the deposit of waste
- the carrying out of various operations associated with fish farming

In all instances, these works need to be reasonably necessary for the purposes of agriculture and as with the previous class there are a numerous limitations and conditions that restrict development. These include development not being carried out on a separate parcel of land forming part of the unit which is less than 0.4ha in area, the height of any building being increased, increases in size by more than 10 per cent, development being within 5m of a boundary of the site and many others.

**Class C** of Part 6 refers to mineral working for agricultural purposes and allows the winning and working on land held or occupied, with land used for the purpose of agriculture of any minerals reasonably necessary for agricultural purposes within the agricultural unit of which it forms part. The only limitations associated with this, is that development is not permitted if it is within 25m of a trunk or classified road and any mineral extracted from the site is not moved to any place outside of that site unless it is to land which is associated with the site and is in an agricultural use.

Forestry uses benefit from 'permitted development' rights under Part 7 which works in a similar way to Part 6, granting rights to:

- erect or alter a building
- form a private way
- operations to obtain materials to and from private ways
- other operations

The first two categories are subject to the Prior Approval procedure.

There are no rights for farm diversification schemes despite becoming more prevalent and are, to a degree, encouraged by national planning guidance and development plan policies. Whilst farm gate sales and farm shops are considered to be de minimus and planning permission is not required this only allows the sale of goods directly grown or reared on the farm. It does not allow the sale of goods made from produce derived from the farm such as cheese, bread, jam, pies, candles, hurdles etc.

There are no permitted development rights for equestrian uses, which is becoming an increasingly popular activity. Given the amount of space

required for the keeping of horses, it is agricultural land that is being utilised for equestrian purposes and currently this requires a change of use application and also an application for the erection of any associated buildings.

Part 5 of the GPDO grants 'permitted development' rights for caravan sites to allow the use of land for a caravan site where a licence is not required and development required by the conditions of a site licence. Part 2 allows certain recreational organisations to erect tents on land.

Rights under Part 2 are applicable to all rural uses.

## 12.4 Current volume of minor applications for rural developments

The analysis of weekly lists shows how many agricultural, forestry, equestrian and tourist applications were submitted in the 24 authorities (table 22).

Table 22: Sampled applications for rural developments		
Category of development	No of applications	% of minor applications
Agriculture	27	5.36
Forestry	3	0.60
Equestrianism	5	0.99
Rural tourism	7	1.39
Total	42	8.34
All minor applications	504	100.00

What is perhaps most interesting about this table is the number of applications for minor agricultural developments that are submitted, notwithstanding the relatively generous rights which farmers have to submit Prior Approval applications. This points to the fact that the various caveats which limit 'permitted development' rights for farmers, such as proximity to third party dwellings, are resulting in the farming sector having to submit planning applications. Other rural activities generate far fewer applications, giving little potential for significant savings.

## 12.5 National Policies

National guidance for rural development is provided in *PPS 7: Sustainable Development in Rural Areas*, which sets out the Government's objectives and key principles for rural areas. These objectives include the promotion of sustainable, diverse and adaptable agricultural sectors where farming contributes both directly and indirectly to the rural economy and is competitive and profitable. A further objective is to promote more sustainable patterns of

development which includes providing appropriate leisure opportunities to enable urban and rural dwellers to enjoy the wider countryside. In particular PPS 7 actively encourages the re-use of agricultural buildings and in particular re-use for economic purposes. It also recognises that diversification into non-agricultural activities is vital to the continuing viability of many farm enterprises. Horse riding and other equestrian activities are also recognised as popular forms of recreation in the countryside that can fit in well with farming activities and help to diversify rural economies. Likewise, PPS 7 is supportive of the re-use of existing buildings for tourist accommodation.

Also relevant is *PPS 9: Biodiversity and Geological Conservation* which sets out the Government's policies for conserving and enhancing biodiversity. The Government seeks to promote sustainable development by ensuring that biological and geological diversity are conserved and enhanced as part social, environmental and economic development. PPS 9 also seeks to improve rural renewal and urban renaissance by encouraging and ensuring developments take account of the role biodiversity in supporting economic diversification.

The equivalent policy documents for Wales are TAN 5 and TAN 6.

## 12.6 Development Plan Policies

Overall policies within development plans are supportive of the principal of re-use of rural buildings, with policies supporting a combination of B1, B8 and in some instances tourist accommodation. The policies establish that the building should be convertible without any significant works being required and generally sets out that new openings should be kept to a minimum and should have no impact on the amenities of the surroundings. The policies are generally positively worded to encourage appropriate re-use.

Specific equestrian policies are becoming more and more prevalent in Development Plans and on the whole will support development subject to the development having no detrimental impact on the character of the area. In particular the policies look to protect the open character and to limit the subdivision of the site. The policies also look to limit the site building requirements.

This is another policy area where on the whole the extension and redevelopment of existing tourist sites is supported. The policies are positively worded but seek to protect the areas, which make tourists want to visit the locality. The protection given to rural areas is more significant than areas within built up areas. The provision of new tourist facilities in the countryside is on a whole supported if the site is sustainable and is through the re-use of existing buildings, although the erection of purpose built tourist accommodation is more often than not restricted.

## 12.7 Views on the current system

In March 2007 DEFRA published its *Barriers to Diversification Report*.<sup>37</sup> The report argues that the requirement to obtain planning permission for non-agricultural activity and the bureaucratic processes associated with gaining planning consents can be perceived as a particularly high barrier for farmers. It called for thresholds for minor commercial development to be raised to allow small scale developments with minimum external impact to proceed outside the planning system. The report argues that many farm diversifications can involve internal conversions of redundant buildings or use of equipment or machinery not dissimilar from agricultural equipment and therefore having little impact on neighbours. It suggests that widening permitted development rights to allow this kind of activity would remove a significant barrier to farmers considering small scale business conversions.

There has been recent discussion over the planning status of polytunnels which have become an increasingly common sight in some parts of England and Wales. In July 2007 the Government Chief Planner wrote to Chief Planning Officers to clarify the Government's understanding of the situation, with regard to the extent to which polytunnels currently enjoy permitted development rights following a High Court judgement in December 2006.<sup>38</sup> The letter confirmed the view that such a building can have a maximum area of 465m<sup>2</sup>. Although more than one "building" can be erected at any one time they must be at least 9m from another building.

A *Sounding Board* was convened to explore attitudes to minor developments for rural development. The feedback received from the Sounding Board is set out in appendix 3.

The Sounding Board was attended by representatives of the National Farmers' Union, Natural England, Camping and Caravan Club, National Association of AONBs, Country Land and Business Association, practitioners in the fields of town planning and other advisors. The broad consensus was that the 'permitted development' rights for agriculture are currently "about right" and the Prior Approval procedure is a system that farmers are comfortable with and that they understand.

There was some agreement that some forms of rural development, such as farm diversification schemes, could be relaxed in line with national guidance and with many development plan policies. It was considered however, that the acceptability of this approach would be dependent on the amount of floor space permitted to be changed, otherwise it could have a significant impact on sustainable objectives and result in a material change in the operation of the agricultural unit. It was also stressed that this should only apply to agricultural buildings, which are part of an agricultural unit in operation, and that it should not be applied to any redundant building in a rural location. On the whole there was support for 'permitted development' rights for farm diversification.

37 <http://www.defra.gov.uk/farm/working/diversify/pdf/barriers-diversification.pdf>

38 <http://www.communities.gov.uk/documents/planningandbuilding/pdf/Polytunnels>

With regard to equestrianism, there was an acknowledgement that this was an area of increasing popularity and there was some concern that land being divided could have a negative impact on the character of the countryside. It was considered that where the intensification of the use was not as high and sufficient land was used, there was scope for equestrianism to have no greater impact on the countryside than current agricultural practices. It was considered that the sizes of the sub-divided plots were important and that the amount of building and hardstanding should be controlled. It was also considered that equestrianism should still require formal planning permission in sensitive areas such as AONB, National Parks and Conservation Areas in order to protect their special character.

Development Control Managers' verbal feedback shows that equestrianism is a growing issue and on the whole there was concern regarding the visual impact of equestrian development in terms of the size of buildings, more so than the use of land for the keeping of horses. It was also mentioned that there seemed to be a need for clearer guidelines as there are many retrospective applications as people do not appreciate that planning permission is needed for a change of use and for the erection of a stable.

The *Nathaniel Lichfield Review* proposed tighter controls: "*there is a clear need for change to Part 6 and ... agricultural permitted development rights should be tightened in all areas*". Basing its view on feedback from LPAs, the Review suggested a two-stage process of reform: initially Prior Approval procedures would be restructured; and ultimately all but the most minor rural developments would be brought under full planning control. They based their conclusions on the commonly expressed view that farmers' 'permitted development' rights are incompatible with the need to protect attractive rural landscapes. The Review did not explore what the resourcing implications of fully implementing these recommendations might be.

Interestingly, the Review argued that the planning system needs to become more in tune with farmers' needs, with LPAs not taking an "urban preservationist perspective". In similar vein they reviewed whether it was appropriate to extend support for farm diversification by allowing changes of use of buildings or the erection of new buildings, but concluded that this approach was likely to provide greater opportunities for abuse.

The *Heriot Watt Review* assessed whether it was right for farmers to continue to enjoy generous 'permitted development' rights and concluded that there was no justification for reducing their 'permitted development' rights. They considered that there was a logical argument for abolishing Prior Approvals and not insisting that such developments in future be subject to full planning permission, but stopped short of endorsing such a strongly deregulatory measure.

The *Review* examined equestrianism, drawing a distinction between equestrianism which constituted a rural business, and equestrianism which was essentially a leisure activity. Of the two they felt that the former had a stronger case for 'permitted development' rights to mirror those available to

farmers, but the Review stopped short of recommending that such rights be introduced.

Written comments were received from the British Holiday & Home Parks Association Ltd, the Caravan Club, the Camping and Caravanning Club and Bourne Leisure. These are summarised in appendix 2.

## 12.8 Options for change

Part 6 of the GPDO which sets out agricultural 'permitted development' rights has the distinction of being both the most longstanding element of the GPDO as well as the most keenly debated. Complex arguments pit the economic requirements of farmers and of the nation as a whole against the need to protect our rural landscapes. To provide some controls over agriculture buildings the last major revision of Part 6 of the GPDO in 1991 saw Prior Approvals introduced for a range of developments that had previously been permitted. The Prior Approval system, as we discuss in chapter 6 is not universally liked by LPAs, and many planners would like to see it abolished. The question then arises as to what might replace it?

As we have seen, the *Nathaniel Lichfield Review* and the *Heriot Watt Review* reached quite different conclusions. The *Nathaniel Lichfield Review* accepted the concerns of planners about the Prior Approval process, and set out a long term strategy to replace all Prior Approvals with planning applications. The *Heriot Watt Review* took a contrary view, concluding that farmers are not accorded overly generous rights, and considered abolishing Prior Approvals and making all schemes previously considered under such procedures 'permitted development'.

The Sounding Board which was convened as part of this study, and represented a range of interests from the National Farmers' Union to the organisation representing Areas of Outstanding Natural Beauty, debated at some length whether agricultural 'permitted development' rights are set at the right level, and reached a general consensus that Part 6 strikes a fair balance between the freedom of farmers and the protection of the landscape. A great deal of research was undertaken to support the 1991 revisions to the GPDO, and it was felt that no contrary evidence existed to show that these reforms were wrong. We attach great weight to the conclusion of the Sounding Board, and for this reason are disinclined to propose major changes to Part 6 (other than improving Prior Approvals procedures as set out in chapter 6) in the absence of a compelling case to do so.

However, one criticism of the current GPDO is that it does not allow any farm diversification schemes or equestrian uses even though many such schemes are small in scale and are in principle supported by national guidance and development plan policies. In turn, many larger farm diversification schemes are often resisted due to lack of evidence that the proposal will be financially viable. We consider that introduction of some

relatively modest 'permitted development' rights for such schemes would allow farmers/operators to diversify on a small scale initially and build a successful diversification operation without this leading to unacceptable impacts. Once established these activities would be better placed to provide an evidence base for a more comprehensive operation and give the local planning authority the confidence in the viability of the proposal to support the scheme.

Presently farmers can carry out ancillary activities which are reasonably necessary for the purposes of agriculture, without the need for planning permission. These include "farm gate" sales of the farmers' own produce, and the processing of produce into marketable products. Case law and common practice have established these rights rather than their being defined in the GPDO or Use Classes Order. In the case of the processing of farm produce, case law has swung markedly in favour of farmers being able to utilise industrial processes to create an end product, the view having previously been that such processes, if they went beyond the packing of produce, required planning permission. Case law being what it is, there is always a risk that a future case could throw farmers' rights in this area into doubt, which would disincentivise farmers from investing in machinery to add value to their product. Therefore consideration should be given to formalising the right of farmers to process their produce via an amendment to the GPDO.

In relation to farm gate sales, the issue is whether farmers should be allowed to sell more than just the produce from their own farm. DEFRA point out that farm shops benefiting from planning permission tend to sell a range of goods from different sources, and that a farm shop selling produce just from the host farm is unlikely to be viable. At present a rule-of-thumb often operates that 80-90 per cent of produce sold in a farm shop must be produced on the farm, though many farm shops have diversified into selling a range of processed food items and other goods. There is a case for giving farmers the ability to operate a farm shop without the need for planning permission, provided careful limits are placed on floor area and the range of goods which can be sold. If any new rights of this kind are introduced, they must be carefully crafted to ensure sufficient levels of control over potential environmental impacts.

A further issue for farmers is how to make best use of farm buildings which are vacant, yet in a good enough condition to be reused. It is reported that farmers are often discouraged from seeking new uses by the 'red tape' involved in having to seek planning permission. We believe there is a case for allowing farmers a degree of flexibility to reuse buildings for a low key use like storage. Renting a farm building out for storage will not require wholesale physical alterations – as say a conversion to office use would – and is likely to have similar external impacts to an agricultural use. The key requirement is to set a floor space limit which will prevent overly intensive uses from taking place.

Each of the above proposals would benefit from careful consideration and comment from relevant bodies such as the NFU and the CPRE.

Lastly consideration has been given to allowing other types of diversification, such as holiday lets or guesthouse accommodation, and “working farms”, including facilities such as tea shops and play zones, but it was concluded that the former had too much potential for abuse in terms of the creation of new independent living units, whilst the latter could give rise to significant changes in the character of a farm. Both proposals were rejected.

## 12.9 Recommendations

It is considered that there is a strong case for providing ‘permitted development’ rights for farm diversification schemes and equestrianism, which will be in line with both Government guidance and the vast majority of development plan policies, which support rural diversification and leisure uses in the countryside.

### Farm diversification

It is important to get the balance right in terms of the amount of development that can be undertaken as ‘permitted development’ to give farmers sufficient scope to genuinely diversify. However, this needs to be balanced with ‘permitted development’ rights not being overly permissive which could result in a level of development being undertaken resulting in significant detriment to the character and appearance of the area, the amenities of the surroundings; or to encourage operations or practices which would be contrary to national objectives.

Our view is that a limited ‘permitted development’ allowance for farm diversification would strongly support government policies aimed at easing the economic burden on farmers, whilst at the same time encouraging farmers to explore diversification without the perceived need to have to make an economic case for diversification as part of a planning application. However, it is important to set the limits correctly so that adverse impacts such as additional traffic on unsuitable roads, and excessive external changes to buildings or outdoor activities, are controlled. The potential for abuse of the system, such as new tourist accommodation being used as a smokescreen for independent dwellings, needs to be recognised.

It is considered that the reuse of redundant rural buildings for the following purposes is capable of being undertaken without adverse impacts, provided a maximum limit is placed on the amount of floorspace which can be converted:

- the making of products from produce/materials grown or reared on the farm
- the selling of produce/products from the farm and from neighbouring farms, plus a small element of other types of produce
- storage and distribution uses (but no subsequent change to B1)

The first option would allow farmers to generate more value from their produce. The second option would allow farmers within a local area to collaborate in the selling of their produce, and in so doing to make it worth their while to have a modest area dedicated to sales as opposed to selling their produce from a “freezer out the back”. The third option would represent a low-key way for farmers to generate income from a small unused building.

The maximum floorspace which can be given over to such uses is critical. We considered whether farmers could be allowed to convert up to 235 sq m of floorspace without the need for planning permission, mirroring the ability in Part 3 of the GPDO to interchange between B1, B2 and B8 uses. Concern was raised however that in the case of farm shops 235 sq m was an overly generous floorspace which could give rise to overlarge retail outlets in unsustainable locations. Therefore it is suggested that a limit of 120 sq m be applied to farm shops.

In relation to farm shops, it is critical to control the type of products which can be sold, to prevent a situation arising where small shops selling any products they chose could open up in inappropriate rural locations. It is suggested that an appropriate formula is that 80 per cent of the sales area should be given over to produce grown within 10 miles of the farm shop. In this way farmers within a locality can collaborate in creating a farm shop, and have some leeway to sell a limited amount of other products which may add significantly to the attractiveness of the shop without competing with established retail centres.

It is considered appropriate that changes of use should only benefit buildings that have been used for agricultural purposes in excess of five years, to ensure any schemes represent genuine diversification. For similar reasons farm diversification should only apply to farm units of more than 5 hectares.

Limitations need to be put in place to ensure that sensitive areas such as AONBs and National Parks are protected. As such, a change of use to B8 should not be permitted within an AONB or National Parks as it is considered that AONBs or National Parks are likely to be more affected by commercial uses due to sensitivity to increased traffic.

In relation to the range of farm diversification proposals outlined above, the following limitations are proposed:

1. farm unit to be larger than 5 hectares
2. the total amount of buildings used for farm diversification purposes shall not exceed 235m<sup>2</sup> per agricultural unit, of which no more than 120m<sup>2</sup> shall comprise a farm shop
3. at least 80 per cent of the sales area in farm shops shall be given over to produce/products grown within a 10 mile radius
4. the buildings have been in an agricultural use for 5 or more years and are of permanent construction
5. storage use not within an AONB, National Park or Conservation Area

6. the building is not a listed building
7. the building shall continue to be part of the agricultural unit
8. If the building is no longer needed for one of these uses it shall revert to an agricultural use.

### Equestrianism

Recreational equestrianism is an increasingly popular leisure pursuit within the countryside, with agricultural land being sold off for paddocks and equestrian uses. In principle, this type of activity is appropriate for a countryside location, provided it has no greater detrimental impact on its surroundings than a normal agricultural practice. However, in some cases, land can be intensively used and this intensive use together with the additional paraphernalia associated with equestrianism can result in a marked and detrimental impact on the rural character of the area.

In our view, it would be unwise to introduce 'permitted development' rights for equestrian businesses such as stud farms, training centres or commercial stabling, because such uses can be intensive and can lead to significant changes to the rural landscape, as well as impacting potentially on nearby residential properties. However, there is scope to formalise the keeping of recreational horses in instances where the strict case law definition of an 'agricultural horse' is not complied, yet the keeping of such horses is a legitimate rural activity which does not impact adversely on the rural landscape.

Limitations are required to ensure that rural character is protected. Guidelines produced by The British Horse Society allow specific limitations to be set that are appropriate for the welfare of horses and for appropriate pasture management. It is therefore proposed to ensure that no more than 2 horses are kept on any 1ha plot at any one time, and that a change of use to equestrian is only permitted on sites of 1ha or over. Furthermore, in order to protect the character of the rural area and to prevent further subdivision of the land, a limitation should be attached to ensure the 1ha site is always available and at no time subdivided.

In order to protect the land from unwanted paraphernalia, it is considered important to get the balance right between essential facilities and structures and unnecessary additions. On the basis that a maximum of two horses can be kept on any 1ha plot, it is considered appropriate to allow a modest open fronted field shelter that can safely accommodate horses. An appropriate size for two horses would be a building with a footprint no greater than 36m<sup>2</sup>, and with a height no greater than 3m. Furthermore it is considered appropriate to require that the field shelter be a minimum distance of 5m from residential properties. Given the sensitive nature of AONBs and National Parks, the erection of a field shelter in these designated areas will be subject to a Minor Development Certificate.

Further control is required for hardstanding, fences and jumps. With regard to hardstanding, 50m<sup>2</sup> is proposed as a maximum amount per 1ha site which includes the hardstanding required for the positioning of any field

shelter. It is necessary that this should be constructed of a porous material. In terms of fencing and boundary treatment on the site, these should be restricted in height to 1.4m, as advised by the British Horse Society. This maximum height of 1.4m will further protect the open nature of the site and resist any inappropriately high fences.

Either permanent jumps or temporary jumps have the opportunity to cause visual clutter and adversely impact on the character and appearance of the area. It is proposed that no permanent jumps are permitted on the site and any temporary jumps are only permitted on the site for 52 days in any calendar year. It is considered this would appropriately protect the rural area from visual clutter.

It is recommended that 'permitted development' rights be introduced for:

- change of use of land to recreational equestrian use subject to the area being no smaller than 1 ha, subject to:
  - no more than two horses at any one time being kept on any 1ha plot
  - the 1ha site not being subdivided in anyway and all the land being kept available for the grazing and keeping of horses at all times
  - no equestrian business to be carried out
- the erection, construction, maintenance, and improvement of a fence, wall or other means of enclosure of recreational equestrian land, subject to:
  - no fences, walls or structures of any kind shall be erected if these subdivide the 1ha site area
  - no fence, walls or structures of any kind shall be erected if these exceed 1.4m in height
- the erection of a field shelter solely to be used for the keeping of horses for recreational use, subject to:
  - the building shall not exceed 3.0m in height
  - the building shall have a footprint no greater than 36m<sup>2</sup>
  - only one building shall be constructed per 1ha plot of land
  - if the shelter is no longer required for the keeping of horses it shall be removed within one calendar month
  - the building shall be a minimum of 5m from any boundary with a public highway or a neighbouring residential property
  - the field shelter shall be positioned on porous hardstanding of no more than 50 sq m
  - if the site is within an AONB or National Park, a Minor Development Certificate required
  - no internal subdivisions, lighting or electricity to be fitted
  - completely open fronted
- the use of temporary jumps, subject to:
  - no more than eight may be positioned on any 1ha plot at any one time
  - the jumps shall only be in place on the site for no more than 52 days per calendar year

## Caravan sites

There are several different types of caravan sites: home parks consisting of permanently occupied mobile homes; travellers' sites where there is a degree of turnover of occupiers; and holiday parks consisting of permanent caravans and pitches for holidaymakers. It has been reported to us that such sites are presented with a unique set of difficulties because of the interface between the planning system and the Caravan Sites and Control of Development Act 1960.

Currently, planning permission must first be obtained for a caravan site, following which a site licence is obtained which must conform with the planning permission ie it cannot exceed any limits imposed by the planning permission. The presumption behind these dual controls is that the planning permission covers 'external' matters such as the principle and intensity of use; whilst the site licence covers 'internal' matters such as layout and facilities. Both planning permission and site licences may be subject to conditions.

The principal difficulty which has been brought to our attention is the increasing overlap between planning and licensing especially when physical improvements to a caravan site are required. Because site licensing rather than planning permission is intended to cover 'internal' matters – which is reflected in the fact that Class B of Part 5 of the GPDO allows for 'development required by the conditions of a site licence' – there should in theory be no need for planning permissions to condition internal details. However, a combination of factors – the fact that planning permission precedes the site licence and therefore it is not evident to the local planning authority granting planning permission what level of control will be placed on internal arrangements; the fact that the detail attached to a site licence application can be highly variable; and the fact that there is increasing pressure to protect attractive rural localities from damaging development – means that increasingly planning permissions seek to control 'internal' matters. Because the imposition of conditions overrides the GPDO, caravan site operators therefore find themselves submitting increasing numbers of planning applications for minor internal works.

Further uncertainties exist in relation to what exactly Class B rights cover, especially where a site licence is couched in general terms. If a site licence simply refers to the need for a toilet block, does Class B allow the operator to site it anywhere and to any design? If a toilet block needs replacing, does Class B allow such a replacement to proceed without planning permission? What happens if the new block needs to be slightly bigger or sited differently? What happens if existing buildings need to be enlarged slightly or small new buildings erected?

The assumption behind the dual system, which is that all internal developments required in connection with a licensed site would be 'permitted development' under Class B, appears to have given way to a situation where local planning authorities are heavily conditioning planning permissions in order to bring internal changes under planning control. They

are then applying the precautionary principle to the replacement of worn-out facilities and insisting on the submission of planning applications.

The British Holiday and Home Parks Association, supported by Bourne Leisure, one of the largest operators, have called for Class B to specify which types of minor development may be carried out irrespective of the terms of a site licence. The two representatives of private caravanners, the Caravan Club and the Camping and Caravanning Club, take a contrary view, suggesting that the government's Model Standards – which govern the provisions of site licences – should be updated to provide the flexibility sought by the industry. They do concede, however, that a clarification of what constitutes 'permitted development' would benefit the operators of caravan sites.

On the face of it, there is no overriding need to amend Class B of Part 5 since it is couched in the most permissive way possible ie anything required by a site licence is deemed to be 'permitted development'. So far as we know, no other users benefit from such generous rights in the GPDO. But the fact that such freedoms exist under the dual system of control is also the reason why planning controls are increasingly overlapping with site licensing.

The suggested solution – to specify in Class B the types of development to which the exemption relates – would offer a potential solution if it helped convince local planning authorities that the types of intrusive development they want to manage would be brought under planning control. However, if the reality is that local planning authorities are trying to manage those things that Class B is designed to permit – replacement toilet blocks, roads, hard landscaping etc – then such a clarification would potentially have a perverse effect by encouraging local planning authorities of the need to retain control through the use of conditions to the initial planning approval.

Bourne Leisure suggests that there is scope for the Prior Approvals procedure to apply to some types of development, thereby giving the local planning authority control over proposed works. We consider that this represents a realistic way forward because it sets limits on what constitutes a 'permitted development', and allows larger developments to be captured by the Minor Development Certificate (MDC) procedure. Such a system would introduce a proportionate system of control which would set out, for the benefit of LPAs, the maximum level of development which could occur without an MDC being required. At the same time it would not place unduly onerous restrictions on operators.

We therefore propose that minor works including replacement buildings, small extensions to existing buildings, hardstandings etc, would be 'permitted development', with anything above these limits, including new buildings and new and replacement plant and machinery, necessitating an MDC. Whilst the introduction of MDCs for caravan sites may be deemed an additional regulatory control because it introduces a greater level of control than Part 5 currently provides, the reality is that the industry is calling for such a change in order to give both themselves and LPAs greater certainty as

to the limits imposed by the GPDO. LPAs would in future have less reason to use the conditions of a planning approval to impose unnecessary controls over caravan sites.

The issue of how to deal with the many caravan sites that are located in or close to National Parks and AONBs is an important one which the current GPDO does not deal with for instance. Part 6 of the GPDO, which deals with agricultural development, makes no distinction between sensitive and non-sensitive areas, the rationale being that (a) if a farm already exists and (b) it has an operational need for a particular development, then that development must be allowed to proceed, subject only to the approval of the LPA as to siting and design in the case of larger developments.

The same logic applies to caravan sites provided an operator possesses a site licence and wishes to carry out works in accordance with that licence, there should be no need to impose tighter controls in sensitive areas, provided that the threshold for MDCs is set at an appropriate level.

It is proposed that, provided such works are in accordance with the site licence and relate to communal facilities ie do not enlarge individual holiday units, caravan sites be allowed to carry out the following works as 'permitted development' without the need for an MDC:

- replacement buildings up to 25 per cent larger floor area or 25 per cent higher (up to a 5m height limit)
- extensions to buildings up to 25 per cent larger floor area (than original floor space)
- porous hardstandings up to 50 sq m (above that existing)

An MDC would be required for the following works in accordance with a site licence:

- new buildings up to 50 sq m floor area and 5m high
- new and replacement plant and machinery
- replacement buildings, extensions or hardstandings which exceed the tolerances set out above\*
- any other works required by a site licence

\*developments within the curtilage of a listed building, and basements in flood risk areas, would require a full planning application

The full recommended tolerances are set out below:

- for replacement buildings on the same footprint, max 25 per cent increase in floorspace and 5m height
- max 25 sq m extension per existing building up to 25 per cent extra floorspace
- height no greater than existing building, if within 10m of a boundary max height of 5m
- not within 5m of a boundary or facing a highway

- no loss of turning/maneuvering space for vehicles
- materials to match existing buildings
- not within the curtilage of a listed building
- porous hardstanding up to 50 sq m
- no basements in Flood Risk Zones 2 and 3 or areas identified in a SFRA as being at risk of ground/surface water flooding

## 12.10 Estimated potential savings in planning application numbers

As noted above, our sample of 504 minor applications contained 42 applications for rural minor developments. For the reasons set out in this chapter, proposed changes to the regime of 'permitted development' rights for farmers are limited to proposals to encourage farm diversification. No farm diversification schemes showed up in our sample of rural planning applications, and only one of the 27 sampled agricultural applications – an application for plant/equipment – would have been converted to a Minor Development Certificate.

This chapter proposes changes to 'permitted development' rights for equestrianism and caravan sites, but as the table at the beginning of this chapter shows, our sample produced very few applications in these areas, and no examples of savings. Thus we are not able to make reliable projections for savings which might result from the changes proposed in this chapter.

**Table 23: Rural areas: summary of implications of recommendations**

RECOMMENDATION	IMPLICATIONS					
	ECONOMIC	ENVIRONMENTAL	POLICY	SOCIAL		
Part 3 Changes of Use: new Class H to aid farm diversification clarify and extend pd rights for farm shops, and to permit some manufacture and storage	<p>Promotes regeneration and PPS 7 objectives ✓</p> <p>Reduces application costs in the preparation of planning applications for properties in Part b 1(b) of the use Class Order ✓</p> <p>Reduced LPA case load ✓</p> <p>Reduced LPA fee income X</p>	Some potential risk of adverse environmental impacts	X	Supports DEFRA's farm diversification policy ✓	Increased opportunities in rural areas	✓

RECOMMENDATION	IMPLICATIONS							
	ECONOMIC	ENVIRONMENTAL	POLICY	SOCIAL				
New Part 41 for equestrianism uses, to permit, in appropriate circumstances, change of use, erection of fences etc, and field shelters and temporary use of jumps	As above	✓	Some environmental risk, including changing the character of rural areas, the accumulation of clutter and degradation of pastures through over-grazing	X	As above	✓	Increased opportunities in rural areas	✓
Amend Part 5 to clarify the relationship between the GPDO and the Caravan Sites etc Act 1960 and to permit extensions to ancillary buildings etc at existing sites under the GPDO	As above	✓	No change	O	Supports better regulation objectives for simplifying regimes	✓	No change	O

**LEGEND**

- ✓ – Positive impact
- O – No impact
- X – Negative impact

# 13 Flats

## 13.1 Definitions

The GPDO defines a flat as *“a separate and self-contained set of premises constructed or adapted for use for the purpose of a dwelling and forming part of a building from some other part of which it is divided horizontally”*. The fundamental characteristic of a flat is that it forms a horizontal segment of a larger building. It is generally assumed that the definition includes maisonettes (ground and upper floor units each with a dedicated entrance and stairs) and “duplex apartments” (flats on two levels), although both could be argued to depart slightly from this definition. A “granny flat” consisting of an attached annexe to an existing house would not be classed as a flat under this definition. There is no distinction between purpose-built “blocks” of flats and flats which are subdivided from existing houses. Part of the perceived unfairness of the current GPDO is the way in which it removes nearly all ‘permitted development’ rights from dwellinghouses once they are subdivided into flats (the only right which remains is to install satellite dishes).

## 13.2 Background

Although not a non-household use, flats are covered in this study having been deferred from the earlier Householder Development Consents Review to allow a wider consideration of the planning issues surrounding them. Flats present particular problems both because of definitional issues and because of their communal character.

The issue of communality is arguably the reason that the GPDO removes so many rights from subdivided houses. The fact that entrances, amenity areas, parking areas and bin/cycle stores may be shared between a number of residents introduces additional potential impacts which must be considered. For instance, how should the GPDO deal with a proposed shed for maintenance equipment which is to be sited in a communal area? How should it deal with proposals for dormer windows when there is shared legal responsibility for roof maintenance? Impacts from minor developments may assume greater importance, for instance a conservatory at ground floor level could spread light pollution to a flat above, or an addition of a balcony to an upper floor living room in a flat could cause a greater degree of overlooking than the equivalent addition to a master bedroom in a dwellinghouse, simply because of its relative frequency of use.

A further issue which this report addresses is the arguably anomalous situation whereby the combining of two flats into a house does not constitute development whilst the reverse situation of subdividing a house into two flats does. Both types of accommodation are residential in character,

and often there are no external changes involved in changing between the two. The significant increase in flat building since PPG3 in 2000 introduced minimum densities for development has resulted in flats becoming central to the government's housebuilding strategy. It is therefore appropriate to consider whether the current distinction between houses and flats remains relevant.

Park homes occupy an anomalous position in planning terms, being temporary structures which benefit from permanent use rights. A number of local authorities recognise the importance of park homes to the housing market, given that they provide a comparatively low cost means of entry into home ownership, thereby relieving pressure in the housing market. As a result some development plans specifically protect park homes from being replaced with permanent dwellinghouses. In these circumstances, the fact that park homes benefit from no 'permitted development' rights for alterations and extensions merits debate, to identify whether park home occupiers are being denied rights which are accorded to those living in permanent dwellinghouses.

The related issue of communal facilities on park home sites is dealt with in chapter 12.

### 13.3 Current Permitted Development Rights

Part 2 of the GPDO allows means of enclosure and access to be added to all types of property and hence is applicable to flats and park homes.

Part 3 allows a single flat to be created in a shop or financial and professional service, and for that flat subsequently to revert back to its original use, without the need for planning permission. Where the shop or financial and professional service has a display window at ground floor level, the flat may only be created on an upper floor.

Part 25 allows two 90 cm microwave antennae to be installed per block of flats up to 15m high. It is not clear whether this right also applies to park homes.

### 13.4 Current volume of minor applications for flats

The analysis of weekly lists shows that in the 24 authorities in the four weeks that was sampled, just five applications for alterations to flats were determined. This is considered to be too small a sample from which to draw realistic conclusions regarding the numbers of applications to alter flats which are dealt with nationally every year.

## 13.5 Views on the current system

A *Sounding Board* was convened to explore attitudes to minor developments by flats. The feedback from the Sounding Board is set out in appendix 3. The Sounding Board was attended by practitioners in the fields of town planning, building control and chartered surveying, and by amenity groups.

The feedback from the Sounding Board revealed a range of opinion, generally with no broad consensus emerging. The areas that were identified as having the most potential for 'permitted development' rights were porches, sheds, solar panels and hardstanding, although concerns were raised about their potential impact and the loss of shared parking/amenity areas. There was concern that ground floor extensions could impact adversely on upper floor occupiers, whilst upper floor extensions such as dormer windows could cause overlooking. No strong views were expressed on 'permitted development' rights for park homes.

The one broad consensus which did emerge was that 'permitted development' rights to subdivide houses into flats could lead to uncontrolled adverse impacts including harm to the character of an area, additional parking pressure, lack of amenity space and increased internal noise levels. A common opinion was that change of use applications are often controversial and therefore third parties expect to have input into them. A minority view was that the subdivision of houses could be subject to a Prior Approval system that required an impact assessment to be submitted.

Development Control Managers took a cautious approach to 'permitted development' rights for flats, mirroring the types of views expressed at the Sounding Boards. They generally accepted the argument that it was illogical for dwellinghouses to lose all 'permitted development' rights when subdivided, and that the exclusion of flats implied an inconsistency in the GPDO. However, there was a reluctance to go much beyond smallscale external alterations such as windows and possibly former windows. Concerns were generally expressed about the adverse impacts of allowing dwellinghouses to be subdivided without the need for planning permission.

The *Nathaniel Lichfield Review* did not address 'permitted development' rights for flats.

The *Heriot Watt Householder Review* reached the following conclusion:

*"We consider that flats should be included within the definition of a "dwellinghouse" and benefit from some permitted development rights. Accordingly the following developments, up to the limits specified below, should be permitted for flats:*

- *alterations to a roof; and*
- *alterations comprising window replacements*

*Where flats benefit from a curtilage, they should also enjoy additional permitted development rights enjoyed by other types of dwellinghouse.*

*As well as introducing an element of equity among occupants of different types of dwellinghouses, this will contribute to a significant reduction in planning applications in urban areas (4-in-a-block flats comprise 11% of dwellings in Scotland, whilst tenements comprise 23%). We consider the associated environmental risks are small, given that any interference with communal rights is a property, not a planning, issue."*

*British Holiday & Home Parks Association* indicated their resistance to 'permitted development' rights being granted to individual park home occupiers on the basis that such control should rest with the operator of the site.

## 13.6 Options for change

Flats present unique difficulties in planning terms. On the face of it there is a case for treating flats as closely as possible like dwellinghouses, affording them a similar range of 'permitted development' rights. However, the communal nature of many curtilages, the inherent compactness of flatted layouts and the possibility of disturbing the unified design of a block of flats, all indicate that caution must be exercised in relation to 'permitted development' rights.

The counter argument, as espoused by Heriot Watt, is that there is an inherent inequity in denying flat dwellers rights which are taken for granted by householders. This inequity is particularly apparent in relation to houses which are converted to flats and as a consequence lose all 'permitted development' rights. As a starting point, therefore, consideration should be given to restoring a limited range of 'permitted development' rights to such flats, provided they accord with an impacts-based approach. It would then be possible to consider whether such rights could be extended to purpose-built flats and park homes. Lastly consideration should be given to whether 'permitted development' rights could be introduced in relation to the subdivision of houses.

### Alterations to flats subdivided from houses

The *Heriot Watt Householder Review* suggested that roof alterations such as rooflights and solar panels be allowed on flats. The authors of this report are supportive of this approach, and advocate extending the rights recommended by Entec in their review of microgeneration equipment to cover flats.

Outbuildings for flats should be considered positively. One of the complaints levelled at the current system is that, in a row or terraced houses where some have been subdivided, it makes no sense that the occupiers of flats must seek consent for an outbuilding to store maintenance equipment whereas the occupiers of houses need not. Provided that the potential impact on the occupier(s) of the groundfloor flat(s) is controlled, there

should be no reason why outbuildings of a similar size to those which can be added to dwellinghouses should not be 'permitted development'. 5m is considered an appropriate distance for outbuildings to be sited away from existing doors and windows. Windows in outbuildings facing existing windows should be ruled out to protect privacy.

The *Heriot Watt Householder Review* recommended that replacement windows be made 'permitted development' given that such changes have a limited impact on the appearance of a flat. However, a counter argument is that the piecemeal replacement of windows in a group of flats could have a harmful affect on the appearance of a building by reducing its architectural unity. Whilst granting permission for replacement windows has much to recommend it, on balance we are persuaded that the need to protect the integrity of dwellings which have been converted to flats makes such a change undesirable.

Lastly there is the issue of extensions. The variety of ways in which houses can be subdivided, and amenity areas laid out, makes it difficult to frame tolerances with a degree of certainty. It is tempting to apply the tolerances which have been recommended following the Householder Development Consents Review to flats, but these rights are largely based on proximity to site boundaries in order to limit impact, and hence are less easily applied to the curtilage of, say, a large converted detached house where there may be a number of flats with principal windows potentially affected by an extension to an adjoining flat, but no internal property boundaries exist which would allow limitations to be easily drawn up. It is concluded that introducing 'permitted development' rights for extensions to flats is a high risk option which should not be pursued. The same considerations are considered to apply to roof and basement extensions. The only exception is considered to apply to porches as defined in the GPDO, which could be added to the entrance to a group of flats without in our view, a significant risk of adverse impact, given the strict definition of "porch" in the GPDO.

### **Alterations to purpose-built flats**

Purpose-built flats present a range of issues which set them apart from flats converted from houses:

- they are likely to be designed with an element of architectural unity such that differently-designed alterations by different residents could have a significant impact. An example would be the uncoordinated replacement or enlargement of doors and windows
- purpose-built blocks of flats may be significantly larger than converted dwellinghouses
- amenity space is more likely to be communally-managed and subject to a unified landscaping design

Given these characteristics, and the resultant potential for negative impacts, there is considered to be a weaker case for introducing 'permitted development' rights for purpose-built flats. The most convincing case can be made in relation to roof alterations for solar panels or similar, provided these

are carried out as part of a microgeneration installation for the whole block. In these circumstances a unified approach rather than piecemeal installation of individual units would be achievable, and hence adverse Level 3 impacts minimised. A case can also be made that modest-sized outbuildings and small areas of hardstanding could be permitted. However, we believe that porches cannot be supported because of architectural unity arguments. Replacement windows are not supported for the same reason.

### Alterations to park homes

Whilst there is an element of inequity relating to the way in which park homes are treated, this must be balanced against the fact that park homes are essentially temporary structures and hence permanent additions must be carefully assessed. Given the British Holiday and Park Homes Association's opposition to 'permitted development' rights for individual park homes, at this stage we are not recommending any extension of rights in this area.

### Subdivision of houses into flats

There is much circumstantial evidence which might support a relaxation in this area. First, it would underpin a key part of the government's housebuilding agenda by ensuring that sufficient dwellings of appropriate sizes are built to meet projected need over the next two decades. By freeing up the ability to subdivide larger properties into smaller more affordable units, landlords and developers would be given the maximum encouragement to respond to market need. Internal design issues such as minimising noise transmission would continue to be dealt with as they are now via Building Regulations. The question of how housing numbers could be satisfactorily monitored if applications were no longer required for subdivision has been raised, and whilst this is acknowledged as an issue it would not itself be a good reason to resist the change.

Second, it that would reflect the increasing popularity and acceptance of flats as a form of residential accommodation suited to all areas, and the fact that the historic tenure difference between houses and flats – with flats tending to be rented whilst houses tended to be owned – is breaking down with the increasing popularity of buy-to-let houses coinciding with the freehold flats becoming a more common form of tenure in higher density new residential schemes.

Third, flats do not necessarily bring with them the negative impacts that are commonly associated with them. They generally lead to a reduction in the number of bedrooms in a property rather than an increase, and hence may not lead to an intensification as is commonly perceived to be the case. It follows that lack of amenity space is not a problem since the amenity space which served the house prior to subdivision will continue to serve future occupiers. Similarly lack of car parking may not be an issue since many authorities relate parking standards to the number of bedrooms. In any event the government has for a number of years advocated reduced onsite parking provision.

The most common concern relates to the cumulative impact of additional flats in residential neighbourhoods. This argument may not carry such weight as is commonly believed. The first reason is that since 2000 and the advent of minimum density and mix requirements, it has become the norm for new housing schemes to include an element of flatted accommodation, without obvious detriment to the overall character of these developments. Second, whilst concern is often expressed about the transient nature of flat occupiers, the reality is that it is Houses in Multiple Occupation which accommodate the most transient members of the population. There is no planning control over Houses in Multiple Occupation, which are defined in England and Wales as comprising up to six people living as a single household. A feature of many university towns is the occurrence of clusters of Houses in Multiple Occupation in older housing areas, which can significantly change the character of an area.

The strongest argument against freeing up the ability to subdivide houses is the public perception that control is required in this area. The feedback from both the Sounding Board and from Development Control Managers indicates concern about possible deregulation in this area. Notwithstanding the circumstantial evidence set out above which lends support to deregulation, it is clear that there would be widespread misgivings about introducing 'permitted development' rights to subdivide houses. Since the planning system's purpose is to regulate development in the public interest, it is concluded that the time is not right to recommend such a change.

### 13.7 Recommendations

We believe there is a strong case for introducing limited 'permitted development' rights for flats. Two alternative approaches have been explored:

1. The first option would distinguish between flats converted from dwellings, and purpose-built flats, and grant more wide-ranging rights to the former, with a more limited range of rights for the latter. The advantage of this is that it would focus the reforms on the most obvious anomaly of the current system: the immediate loss of nearly all 'permitted development' rights when a house is subdivided into flats. There are two disadvantages. The first is definitional, in that it may not always be obvious when flats have been converted or are purpose-built, and some developments may combine the two. The second has to do with equity, in that there is a danger that in addressing the unfair way that the GPDO treats flat dwellers in comparison with householders, a further level of unfairness would be created by defining two classes of flat dwellers.
2. The second option would see a more limited range of 'permitted development' rights introduced for all flat dwellers. The advantages are that the definitional and equity issues identified above would be overcome; the disadvantage is that the range of 'permitted development' rights would be more limited.

We consider that the second option offers advantages over the first, and hence propose the following 'permitted development' rights to apply to all flats.

### **Proposals for a revised Part 1**

Class C (roof alterations) (as defined by the *Entec Microgeneration Review*) to apply to flats.

Class E (outbuildings) (as defined by the *Householder Development Consents Review*) to apply to flats, subject to no outbuilding being located within 5m of any door or window on the host property and no windows in any outbuilding facing existing windows in the host property.

Class F (hardstandings) (as defined by the *Householder Development Consents Review*) to apply to flats, up to a maximum of 25 sq m per block of flats

## **13.8 Estimated Potential Savings in Planning Application Numbers**

As noted above, a very small sample size was produced by our survey (5), and out of this number no potential savings were identified. The lack of hard data in this area prevents any attempt from being made to estimate savings which might result from the recommendations in this chapter being implemented. We do not, however, regard this as an argument against making the changes noted above, since it appears to us that natural justice demands that flat dwellers be accorded at least some of the rights available to householders.

**Table 24: Flats: summary of implications of recommendations**

RECOMMENDATION	IMPLICATIONS					
	ECONOMIC	ENVIRONMENTAL	POLICY	SOCIAL		
Part 1 revised to allow flats limited 'permitted development' rights	<p>Reduces applicant costs in the preparation of planning applications</p> <p>Reduces LPA resources devoted to determining planning applications</p> <p>Reduced LPA fee income</p>	<p>Low risk of adverse impacts on the residents of the host and adjoining properties</p>	<p>Supports the provision of housing to meet local needs by offering encouragement to flat dwellers to improve their accommodation</p>	<p>Addresses the current inequitable treatment of flat dwellers as compared to householders</p>	✓	✓

**LEGEND**

- ✓ Positive impact
- No impact
- ✗ Negative impact

# 14 Waste Management

## 14.1 Definitions

'Waste' is not defined for the purposes of the Planning Act, and PPS10 suggests simply that waste assumes its 'normal and natural meaning'. The Town and Country Planning (Prescription of County Matters) (England) (Regulations) 2003 define 'county matters' (waste management developments) in the following terms:

- i) the use of land, the carrying out of building, engineering or other operations, or the erection of plant or machinery used or proposed to be used, wholly or mainly for the purposes of recovering, treating, storing, processing, sorting, transferring or depositing of waste
- ii) operations and uses ancillary to the purposes in (i) above, including development relating to access to highways.

Such applications are dealt with at County or Unitary level rather than District Council level.

The Use Classes Order does not include a waste management class, hence waste management is *sui generis*. It is not classified as an industrial use except in instances where the management of waste is ancillary to the main industrial use of a premises.

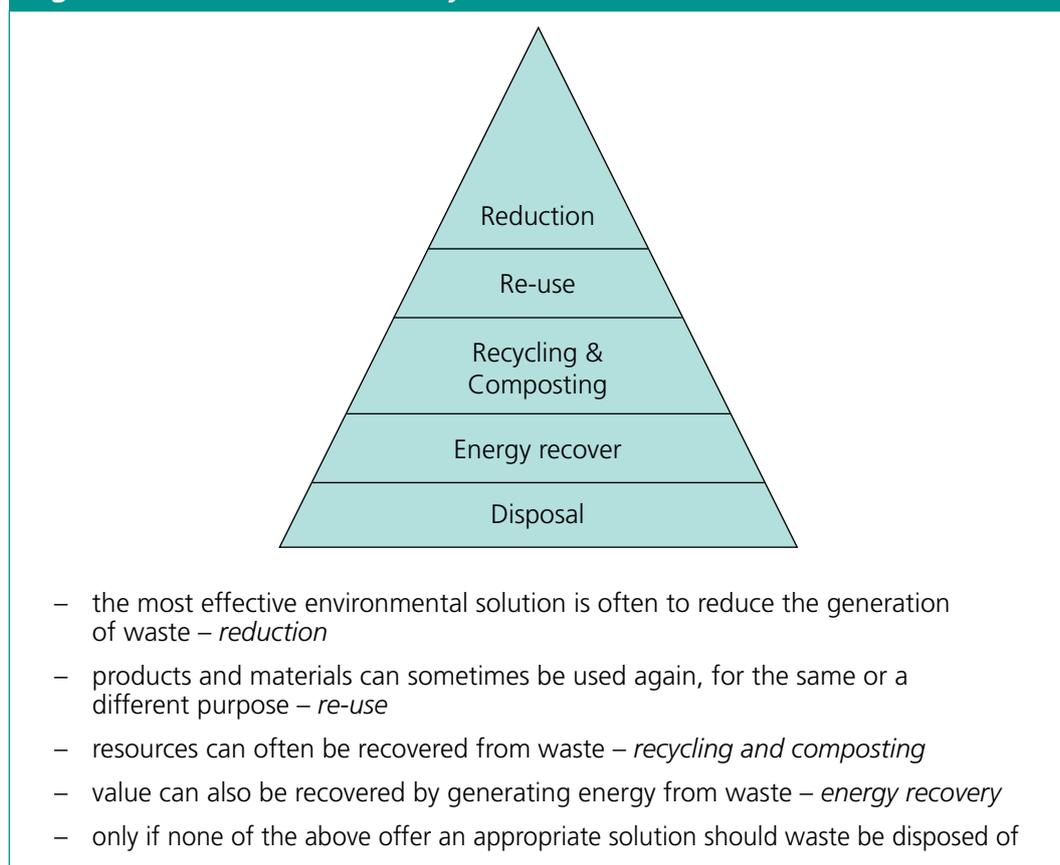
## 14.2 Background

Waste management has assumed an increasingly high profile as the government has sought to encourage more sustainable waste management by moving the management of waste up the 'waste hierarchy'. The waste hierarchy comprises: reduction; reuse; recycling and composting; using waste as a source of energy; and only disposing of waste as a last resort. The waste hierarchy as it appears in PPS10 is illustrated in figure 6 below.

- reduction = the most effective environmental solution is often to reduce the generation of waste
- re-use = products and materials can sometimes be used again, for the same or a different purpose
- recycling and composting = resources can often be recovered from waste
- energy recovery = value can also be recovered by generating energy from waste
- disposal = only if none of the above offer an appropriate solution should waste be disposed of

The governments' attempts to move the management of waste up the waste hierarchy have been accompanied by an increasingly complex regulatory environment, partly as a result of legislative changes in the UK, and partly driven by European Directives. Until recently waste operators potentially needed both a Waste Management Licence (WML) and a Pollution Prevention and Control (PPC) Permit (the latter being applicable not just to waste management but to a range of industries including energy, metals, minerals and chemicals). Since 6 April 2008, WML and PPC have both been brought under the umbrella of the Environmental Permitting Regulations. Whilst some exemptions exist for low key waste handling activities, the majority of waste management activities require a permit. It is possible that 'permitted development' rights could be drafted to link where appropriate with exemptions under the Environmental Permitting Regulations. It may also be possible that minor development changes on a site may be required under the Regulations, and that 'permitted development' rights could encompass such changes.

**Figure 7: The waste hierarchy**



The dual system is designed to provide separate but complementary mechanisms. There is a logical basis for this approach because the role of the landuse planning system is to provide an overarching framework for making locational decisions about the siting of waste management facilities, and to measure and control the impact of new developments, however, the technical aspects of pollution control lie outside the remit and capabilities of the planning system, particularly as the planning system does not

differentiate between the industrial sectors noted above. Hence there is a requirement for a separate body of expertise to license and control potential polluters. The problem the dual system presents is ensuring that the two systems neither overlap nor leave gaps where regulation is absent. This presents a continuing challenge for central government and for local authorities.

The waste industry has not historically benefitted from widespread 'permitted development' rights in the same way as industrial uses, which, as was noted in chapter 10, benefit from generous 'permitted development' rights. Past practices in the waste industry have tended to colour public perceptions about the waste industry. The industry is now subject to more stringent regulation than in the past, meaning that many waste installations have impacts which are similar to general industrial (B2) uses or even storage and distribution (B8) uses. A significant development arising from recent changes in waste management practices, has been that many industries are now covered by their own waste regulations, meaning that many industrial premises now incorporate ancillary waste transfer activities. The Use Classes Order provides an example of how formerly noxious industries can be successfully reclassified, having incorporated the old B3-B7 use classes, which contained various polluting industries, into Use Class B2. Could a similar approach be applied to the waste industry?

The waste industry believes that the planning system should not continue to treat waste management separately from other industrial processes, and that the processing of waste ought now to be viewed as a legitimate industrial process and accorded appropriate 'permitted development' rights. Since the publication of the most recent version of the General Permitted Development Order in 1995, waste management practices have been to a large degree transformed, suggesting that this is an area the GPDO has lagged behind other legislation.

It follows from the government's focus on the waste hierarchy that the emphasis in identifying potential 'permitted development' rights should be on the upper parts of the hierarchy. Where industries are required by legislation to dispose of their by-products in a prescribed manner, it is right to consider whether 'permitted development' rights can be framed; and where industries have developed to reuse waste products, or to recover resources or energy from waste products, 'permitted development' rights should be actively considered. These activities include Waste Transfer Stations (where collected waste is bulked up and transported for processing), Materials Recycling Facilities (which separate waste for further processing), Mixed Waste Treatment Facilities and Mechanical Biological Treatment Facilities (which manage biodegradable waste). This sort of materials reclamation is similar to many industrial activities, involving the steady import, processing and export of materials, and the use of industrial processes such as magnetic separation and mechanical sorting. Examples include the reprocessing of plastic bottles and the deconstruction of electrical items. It follows that 'permitted development' rights for landfill sites may not be a priority since landfill is at the bottom of the waste

hierarchy, but where opportunities exist to remove low impact developments from the planning system, these should be taken.

### 14.3 Current Permitted Development Rights

The GPDO contains the following 'permitted development' rights for waste management:

#### Part 6: Agricultural Buildings and Operations

On units over 5 hectares, excavation or engineering operations, necessary for agriculture on the unit, subject to:

- extracted minerals not being moved off the unit
- waste not being brought onto the land from elsewhere for deposit
- max 0.5 hectares of land to be used for the deposit of waste material, subject to Prior Approval

On units under 5 hectares, the deposit of waste where this is reasonably necessary for the purposes of agriculture within the unit subject to:

- waste not being brought on to the land from elsewhere for deposit unless incorporated into permitted building
- the height of the surface of the land not being materially increased

Mineral working for agricultural purposes: mineral extraction necessary for agricultural purposes within the agricultural unit subject to:

- no mineral extracted being moved outside the agricultural unit from which it was extracted

#### Part 8: Industrial and Warehouse Development

The deposit of waste material resulting from an industrial process on land comprised in a site used for that purpose on 1st July 1948 subject to:

- no waste material resulting from mining being deposited

#### Part 12: Development by Local Authorities

The deposit of waste material resulting from an industrial process on land comprised in a site used for that purpose on 1st July 1948 subject to:

- no waste material resulting from mining being deposited

#### Part 21: Waste Tipping at a Mine

The deposit of mining waste on mining land subject to:

- the height of the waste not being higher than the adjoining land
- the superficial area or height not being increased by more than 10 per cent

Unless an approved waste management scheme is in place.

Rights under Class 2 (minor developments) and Class 4 (temporary buildings and uses) apply to waste management facilities.

## 14.4 Current volume of minor applications for waste management

Our analysis of weekly lists produced just four minor applications for waste management facilities out of a total sample of 504 minor applications. This is not considered a statistically significant sample. The low number is partly a result of the fact that of the 24 local authorities sampled, around two thirds were district as opposed to unitary authorities, and hence would be unlikely to include waste applications on their weekly lists. A separate sample comprising solely unitary and county authorities would be required in order to produce a meaningful sample of waste applications. Such a survey has not been undertaken.

## 14.5 National policies

The government's guidance on waste management is set out in *PPS10 Planning for Sustainable Waste Management*. It stresses planning's role in delivering sustainable waste management by providing sufficient opportunities for new waste management facilities of the right type, in the right place and at the right time.

The key objectives of PPS10 are:

- to deliver sustainable development by driving the management of waste up the waste hierarchy
- to encourage communities to take responsibility for their own waste
- to assist in the implementation of the national waste strategy and our obligations under European legislation.
- to secure the recovery and disposal of waste safely and without harm to the environment in a nearby appropriate facility.
- to reflect the needs of all interested parties and encourage competitiveness.
- to protect green belts but recognise the locational needs of some types of waste management facilities in determining planning applications
- to ensure that the design and layout of new development supports sustainable waste management.

PPS 10 sets out the criteria that planning authorities should use to determine planning applications. Local environmental and amenity impacts that need to

be taken into consideration include the protection of water courses, land instability, visual intrusion, nature conservation, historic environment and built heritage, traffic and access, air emissions (including dust), odours, vermin and birds, noise and vibration, litter and potential land use conflicts. Health considerations are primarily a responsibility of pollution control authorities but they may also be relevant to planning.

TAN 21 in Wales is intended to facilitate the introduction of a comprehensive, integrated and sustainable land use planning framework for waste management in Wales. It highlights the role of the planning system in providing adequate facilities for reuse, recovery and disposal of waste which minimises adverse environmental impact and avoids risk to human health. There are details of key UK legislation and EU directives, and the principles and techniques of waste management. There are proposals for regional waste co-ordination resulting in the production of Regional Waste Plans that will meet the requirements of the EU Directives on waste.

## 14.6 Views on the current system

A *Sounding Board* was convened to explore attitudes to waste management. The feedback from the Sounding Board is set out in Appendix 3. The Sounding Board was attended by representatives of the Environment Agency, National Farmers Union, waste operators, local planning authorities and groups who have campaigned on behalf of or against the waste industry.

The Board explored the issues and experiences surrounding the sometimes complex nature of waste issues. Both the waste industry and local authorities experienced difficulties when dealing with waste planning applications. A very wide range of opinions, both positive and negative, was represented at the meeting, reflecting the different interests present. There was a consensus that some operations could be carried out as permitted development, which would require changes to the GPDO, and there was also agreement that some of these procedures could be managed as Prior Approvals.

There was a view that except, where it was unavoidable, 'permitted development' rights for waste management should be treated as part of other business activities rather than as a special class of their own, for example the storage of waste at industrial units prior to processing or collection. There was also consensus that the longstanding perception that all waste operations are 'bad neighbour' activities is outdated, and the GPDO should reflect current realities.

An important theme that emerged from the Sounding Board concerned the widespread perception that problems are being created by the interpretation of the current GPDO relating to the disposal of agricultural waste. Part 6 permits engineering operations that are reasonably necessary for agricultural purposes, and this allows operators to deposit waste material on land ostensibly for agricultural purposes, but in practice this allows them to dump

waste in an unregulated manner without payment of landfill fees. The Board heard of some examples of the consequences of this activity.

Owing to changes in the Environmental Permitting Regulations, the Environment Agency suggested that opportunities for extending 'permitted development' limits in relation to some types of agricultural uses be considered. This area is addressed in chapter 6.

Development Control Managers did not raise 'permitted development' rights in relation to waste management at all, principally we assume because the majority of those we interviewed did not have departmental responsibility for waste management.

The *Nathaniel Lichfield Review* did not consider waste management in depth, primarily because it was reviewing existing classes in the GPDO and no such class currently exists for waste activities. It briefly considered potential new categories of development for inclusion in the GPDO, one being waste management facilities. The Review received representations in two principal areas:

- greater flexibility to interchange between waste management activities and B2/B8 uses, to reflect the trend to locate waste transfer facilities on industrial estates. The Review concluded that whilst government sustainability aims would support sustainable waste management and recycling, waste sites are likely to raise significant planning or environmental issues and should generally be subject to planning control
- a range of minor, site-related works on landfill sites. Suggestions included equipment for monitoring boreholes and landfill gas management equipment. Evidence was put forward that large landfill sites may require hundreds of such minor developments, and that whilst a view could be taken that they are de minimus, there was case for introducing 'permitted development' rights via a new Part of the GPDO, for the avoidance of doubt. It was suggested that tolerances could be based on height and size restrictions

The *Heriot Watt Review* examined in detail the potential for a class of waste management 'permitted development' rights in Scotland. Heriot Watt received representations from the Scottish Environmental Services Association arguing for 'permitted development' rights to allow operators to respond quickly to changes forced upon them by site licensing requirements, to overcome the need for a succession of minor developments with nil third party impacts. They argued that 'permitted development' rights for such works would be analogous to those which exist for industrial and mining operators. The converse argument put by some local planning authorities was that many such sites are in urban areas close to residential uses, and that any loss of public scrutiny for such proposals would be controversial.

The *Review* concluded that 2 new classes of 'permitted development' rights should be introduced:

1. Development ancillary to landfill operations, consisting of:
  - plant or machinery
  - buildings or structures
  - equipment for monitoring gas, leachate, surface water or groundwater
  - engineering bunds for environmental control
  - stockpiling of materials for operations and restoration
  - parking of lorries and skips

Subject to:

- max 15m above original ground levels
- max 6m above made ground for litter control fencing
- max 5m above made ground for flare control rigs
- max 3m above made ground for anything else
- max additional 1,000 sq m or 25 per cent cubic capacity for any extended building
- no buildings, plant or machinery within 400m of any dwellinghouse
- within 24 months of waste operations ceasing, all buildings, plant and machinery to be removed
- the land to be restored afterwards

2. Development ancillary to other waste management operations, consisting of:
  - plant or machinery
  - provision of pipes and cables
  - installation of boreholes to monitor water
  - extension of any building

Subject to:

- max 15m above original ground levels
- height of extended building not to exceed existing
- max additional 1,000 sq m or 25 per cent cubic capacity for any extended building
- no buildings, plant or machinery within 400m of any dwellinghouse
- within 12 months of boreholes no longer being required, all surface equipment to be removed

Lastly the Review recommended that the GPDO should include a definition of “waste management operations”.

The Environmental Services Association, representing the UK’s Waste Management Industry, has published detailed proposals for ‘permitted development’ rights for the waste management industry, based on the principles that such rights should:

- not have any impact beyond the site boundary
- be minor, non-controversial and highly likely to be approved; and
- enable the industry quickly to improve the management and performance of the facility and, in some cases, reduce its impact

The recommendations made by the Heriot Watt Review were closely based on the suggestions of the Scottish Environmental Services Association, which in turn taken from the Environmental Services Association's recommendations.

We received written feedback from the Environment Agency indicating that the most important issue for them is the relationship between 'permitted development' rights and pollution control permitting. Irrespective of whether waste development is permitted under planning it may fall under waste regulatory controls. There are two aspects to this:

- where 'permitted development' rights for new small-scale waste development could potentially link with exemptions from waste management licensing
- where 'permitted development' rights allows minor development changes on a site that is already controlled under Waste Management Licensing or Pollution Prevention and Control

## 14.7 Options for change

It appears anomalous that the waste industry continues not to benefit from 'permitted development' rights, given the extensive 'permitted development' rights available to industries such as mineral extraction, and the high political priority placed on waste management. The historical reasons why the waste industry has not benefitted from 'permitted development' rights are doubtless to do with the negative public image of the industry, dating from the days when its primary focus was the disposal of waste. Even had the industry not evolved in the way that it has in recent years with greater regulation and increased emphasis on reuse and recycling, the authors of this report would consider there to be a strong case for at least limited 'permitted development' rights, to reflect the needs of the industry to make necessary minor on-site changes which have no impact on third parties (above and beyond the obvious impact that a licensed landfill site obviously has on its environment). We agree with the authors of the Nathaniel Lichfield Review, that a plethora of minor operations at landfill sites are probably undertaken without recourse to the planning system and without detriment to third parties; and where an opportunity exists to correct the balance and legitimise such activities, the opportunity should be taken.

The waste industry has diversified far beyond landfill in response to central government policies aimed at driving the management of waste up the waste hierarchy, and embraces a wide range of materials recovery activities, the reuse and recycling of materials, and the generation of energy from waste. The industry is highly regulated with a comprehensive Environmental Permitting System controlling its activities. It is necessary to take a comprehensive and policy-based approach to examining how 'permitted development' rights might be framed to support and encourage government policies on waste, whilst at the same time adopting a fundamentally

impacts-based approach. This section considers each level of the waste hierarchy in turn, to try to tease out the types of 'permitted development' rights which are most appropriate for the waste industry.

### Reduction and Re-use

Reducing the amount of waste generated, and reusing products and materials for the same or a different purpose is fundamental to a sustainable waste management policy, reducing the need to recycle and dispose of waste either into the ground or by incineration. The government has not set a waste prevention target, considering there to be insufficient evidence on which to base such a target. It is difficult to see how 'permitted development' rights can be framed to support the reduction and reuse of waste since neither as a rule necessitates any form of physical development. There has been no call from the waste industry for 'permitted development' rights in these areas, and we have concluded that no such rights need to be framed.

### Recycling and Composting

This is arguably the key area where 'permitted development' rights can support the waste industry in complying with the government's regulations governing recycling, and in doing so bring about much-needed modernisation of the GPDO to reflect changes which have occurred in the industry. The opportunity also exists to support farmers in complying with the changed regulations which have brought agricultural waste within the remit of the Environmental Permitting Regulations.

The issue is complicated by the absence of a clear definition of waste transfer, recycling and waste processing facilities. For the purposes of this report we have taken the widest definition, which includes all aspects of waste processing, including the sorting, storage, recovery, transfer and processing of waste provided that no waste is disposed of on site, such as through incineration or landfill.

There are three main changes to the GPDO which have been proposed to the authors of this report:

*1) Interchange between industrial premises and waste transfer/recovery/recycling/processing facilities*

Part 3 of the GPDO allow a change of use between different use classes. For example, the Use Classes Order contains three separate commercial use classes: B1 Business, B2 General Industry and B8 Storage and Distribution. Part 3 of the GPDO allows two-way interchange between B1 and B8 subject to a maximum floorspace limit and one-way interchange from B2 to B8 or B1, in the former case with a maximum floorspace limit. A similar approach could be applied to allow interchange between B2 uses and waste processing facilities.

The idea is an attractive one. It recognises that many waste processing activities are industrial in nature. It acknowledges the increasing demand

for such uses, and the locational choices made by many waste processing businesses in opting for conventional commercial buildings on industrial estates. A further attraction is that the B2 use class is defined in terms of its non-compatibility with sensitive residential receptors (by contrast with B1 uses which can be undertaken in residential areas without adverse impacts) and hence any impacts which result from a change to waste processing are likely to be within already established tolerances. Furthermore the pollution aspects of waste processing plants are taken care of via the Environmental Permitting Regulations.

There are potential drawbacks. Waste processing plants cover a spectrum of activity from plants which, for instance, deconstruct electrical products and are little different to plants which manufacture electrical products, to Mixed Waste Processing Facilities which take in and sort a full range of waste materials. In terms of potential impacts to adjoining residents, odour will be a concern, along with outside storage and traffic movements. The latter may be an issue as waste processing facilities can be expected to generate a regular flow of delivery vehicles, which may be higher than a conventional B2 manufacturer would generate. These concerns were highlighted by the Nathaniel Lichfield Review.

The possibility of allowing interchange only between B2 uses and certain types of "cleaner" waste processing facilities has been considered but we do not think it feasible because of the definitional difficulties involved. A better approach is to limit the amount of floorspace which can be converted from B2 to waste processing, thereby ruling out larger processing plants accepting all types of waste products, and placing an effective limit on traffic generation. The suggested floorspace limit is 235 sq m, which ties in with the limit placed on interchange between B8 and B1/B2 uses in Part 3 of the GPDO. A change of use from waste processing to B2 should also be allowable.

It is proposed that a new Class I be added to Part 3 allowing the change of use of a building from Class B2 to waste processing and vice versa up to a maximum floorspace of 235 sq m.

## *2) Extensions/alterations to waste transfer/recovery/recycling/processing facilities*

Giving waste processing facilities the ability to make changes to plant and buildings in the same way as industrial facilities was proposed by the Heriot Watt Review and generally supported by the Sounding Board. It gives operators the flexibility to respond to changes in their Environmental Permit, as well as to changing market conditions. If sensible limits are adopted, 'permitted development' rights are unlikely to give rise to adverse third party impacts, given that the principle of the use has already been formally established. It is not in our view appropriate to frame 'permitted development' rights which allow operators to carry out whatever works are required by an Environmental Permit since this would place no limit on potential third party impacts. A better approach is to tailor a set of 'permitted development' rights to the needs and potential impacts of the waste management industry.

We have considered whether to recommend the same “permitted development” rights for the waste management industry as are available to light and general industries under the General Permitted Development Order, but given the very generous nature of these rights (allowing additions extensions of buildings up to 1,000 sq m and new plant up to 15m high) we are concerned that such rights could give rise to public concern about adverse environmental impacts. Therefore we favour giving waste management industries a more limited range of “permitted development” rights similar to the “permitted development” rights that we are recommending for offices, with the ability in addition to construct storage bays and install boreholes.

Our recommendation is that a new Part be created giving the following rights to waste processing facilities:

- max 100 sq m floorspace for new buildings
- max 100 sq m for extensions and alterations to buildings up to max of 25 per cent additional floorspace
- extensions to be no higher than existing building, and max 5m if within 10m of a boundary
- new buildings and extensions to be no closer than 5m to any boundary and no closer to a highway than any existing building
- not within curtilage of a listed building
- no loss of turning/manoeuvring space for vehicles
- max 50 per cent ground coverage
- materials to match
- new porous hardstanding up to 50 sq m (provided not used for waste processing)
- no basements in Flood Risk Zones 2 and 3 or ground/surface water flood risk areas identified in SFRA's
- new storage bays up to 4m high
- installation of boreholes for environmental monitoring

### *3) Ancillary waste management activities*

There is an increasing requirement for all types of commercial and institutional premises to store waste on site pending collection for recycling/disposal, and to process waste prior to collection where this is required by the regulations. The planning system allows for parts of buildings to be used for purposes ancillary to the main use of a premises without the need for planning permission, and consequently in our view there is no need to introduce ‘permitted development’ rights to allow for on site waste storage/processing within parts of existing buildings. However, there is an increasing need for commercial and institutional premises to construct storage buildings for the storage, sorting and transfer of waste.

It is proposed that ‘permitted development’ rights be given to all users (with the exception of residential properties) to construct waste storage containers for the storage of up to 25 cu m of commercial waste (25 cu m is deemed to be a reasonable amount to be stored at one place). The following limitations are proposed:

- max floor area of 20 sq m
- max height of 2.5m
- not within 10m of a boundary
- max 25 cu m of waste to be stored

Farmers have the same ability as other commercial enterprises to undertake ancillary storage of waste produced on their landholding within existing farm buildings. (The issue of farmers installing equipment to incinerate waste is dealt with under Energy Recovery below). However, the changes in the regulations which have led to more farm waste being classified as controlled waste have given rise to the concept of “collection and delivery hubs”, where a site is chosen as a collection point for farm waste produced on landholdings within a defined radius. In trials, up to 2,000 tonnes of waste was collected from an average of 45 farmers at each designated hub for collection and appropriate disposal. The types of waste collected included non-natural farm wastes such as oil, pesticide washings and sheep dip, syringes and animal health waste, oil drums, paper seed bags, agrochem and animal feed bags, plastic wastes, CFC equipment, milk waste, machinery waste, tyres, asbestos roof sheets, CFC gas and batteries.

Whilst there is little doubt that hubs are a positive way forward in the management of non-natural wastes produced on farms, the scale of such hubs in terms of the amount of waste collected, the potential for adverse impacts on neighbours and the rural landscape, and additional traffic movements, strongly suggest that the implications of such installations must be fully considered via a planning application. At this stage we believe it would be premature to introduce ‘permitted development’ rights in this area, even with the safety net of a Minor Development Certificate.

Lastly it has been put to us that the GPDO does not clarify the status of temporary equipment used on construction sites to recover inert waste materials. Class A of Part 4 of the GPDO allows moveable plant or machinery to be provided for the duration of operations on land, which would include concrete crushers and the like. However, if users of the planning system feel that this is insufficiently clear, it makes sense to insert specific wording to clarify the issue, because the use of such equipment is highly sustainable in that it allows materials to be recovered on site and reused, rather than being transported offsite for crushing. It is proposed that the following wording be added to Class A of Part 4:

*“...moveable structures, works, plant or machinery including crushers and other equipment for the recovery of materials...”*

### Energy Recovery

Where waste materials cannot be recycled or composted, the next most sustainable option is to generate energy from the waste. One particular example of this is the generation of energy from farm waste to, for example, heat livestock barns and greenhouses, or, where surplus energy is produced, exporting it to the national grid. Such an approach is highly sustainable and should be encouraged through the planning system. The installation of small

incinerators and biomass boilers within existing farm buildings is regarded as ancillary to the main agricultural use of the unit and hence would not require planning permission, though flues and openings required in connection with such installations could conceivably require permission. Where new structures are required to house incinerators, it is proposed that these be dealt with under the Minor Development Certificate procedure, subject to the proviso that only waste from the farm holding can be disposed of.

### Disposal

Disposal of waste represents the least desirable and sustainable option for managing waste. Generally it is achieved either through landfill or by incineration. The government has set targets for reducing the amount of landfill in England and Wales, but it nevertheless remains the case that landfill is an integral part of the government's approach to managing waste, and as such it is appropriate to consider whether, on established landfill sites, it is possible to frame 'permitted development' rights which will allow waste operators to respond quickly to regulatory and market changes without impacting adversely on third parties. Examples include the addition of weighbridges at older inert landfill sites, and infrastructure required to manage gas and leachate at non-hazardous sites. Both the Nathaniel Lichfield and Heriot Watt Reviews supported the introduction of a range of 'permitted development' rights for landfill facilities, with the Heriot Watt Review suggesting detailed criteria for a new Part to be inserted into the GPDO.

It is also appropriate to review whether incinerators might be given limited "permitted development" rights, again with the aim of giving such facilities the flexibility to respond to regulatory changes and operational needs. Given the nature of incinerators, any such "permitted development" rights need to be tightly framed to control against adverse third party impacts.

Our view is that the type of 'permitted development' rights promoted by the Heriot Watt Review may prove in practice to be too wide ranging and fail to recognise that landfill sites are often in sensitive locations either by virtue of being in the countryside or because they are close to residential properties. We believe the focus should be on allowing them to make minor operational changes rather than on the type of 'permitted development' rights applicable to industrial sites which allow for significantly-sized new buildings. 'Permitted development' rights should focus on the legitimate need to make operational changes within the site, not on the installation of significant new plant or buildings. Gas flares, increases in stack heights, and changes to landfill phasing all potentially have significant environmental impacts and thus should require full planning applications. On the other hand items such as environmental monitoring and treatment equipment, litter fencing, odour control systems, and the storage of topsoil and restoration materials, all appear to be suitable candidates for 'permitted development' subject to appropriate limitations. The installation of potential noisy or unsightly plant and structures may be capable of being dealt with via the Minor Development Certificate procedure.

We propose that 'permitted development' rights be introduced for the following:

- installation of boreholes for environmental monitoring
- installation of leachate management infrastructure
- installation of odour control systems
- erection of litter fencing up to 6m above made ground level
- provision of sewers, mains, cables, pipes or other
- installation of environmental monitoring equipment for gas, surface water and groundwater
- storage of topsoil and restoration materials up to 3m high

We propose that subject to appropriate conditions Minor Development Certificates be required for the following:

- relocation of internal haul roads
- erection of temporary buildings
- installation of weighbridges and wheelwashes
- replacement plant and equipment

A separate issue in relation to landfill concerns the alleged abuse of existing 'permitted development' rights to carry out agricultural land improvements through the importation of waste materials. Problems are understood to have occurred in the past through the importation of demolition wastes to create hardstandings, and the deposit of soils arising from construction works. The disposal of such materials on agricultural land is exempted from Environmental Permitting and is not subject to landfill tax, allowing significant savings in disposal costs. The locations chosen are also often rural and the local roads unsuited to Heavy Goods Vehicles (HGVs), and the lack of environmental controls means the disposal operations are not carried out to the same standards as at inert landfill sites, often causing inconvenience and annoyance to affected communities. It is therefore proposed that the importation of waste materials onto agricultural land be subject to a requirement for a Minor Development Certificate.

Turning finally to incinerators, we suggest that they could be afforded the same rights as we are recommending for waste processing facilities, which allow for modest alterations to respond to operational needs, whilst at the same time not affording the same generous "permitted development" rights to those enjoyed by industry, because of anticipated public concern about adverse environmental impacts which could result from significant additions of new plant or floorspace.

### **Definition of Waste**

Finally, we recommend that definition of waste and waste processing be included within the GPDO amongst the many other definitions contained therein, which will assist in interpreting the new classes of 'permitted development' rights being proposed. We have not attempted within this report to draft such a definition since it is beyond our remit and in any case requires expertise from waste industry specialists.

## 14.8 Recommendations

### Part 2 Minor Operations

New Class D

The erection of a waste storage container, subject to:

- max floor area of 20 sq m
- max height of 2.5m
- not within 10m of a boundary
- max 25 cu m of waste to be stored
- not applicable to dwellinghouses or flats

### Part 3 Changes of Use

New Class I

Change of use from B2 to waste management and vice versa, up to a maximum floorspace of 235 sq m

### Part 4 Temporary Buildings and Uses

Amend Part A to clarify that “moveable structures, works, plant or machinery” includes concrete crushers and other plant and equipment for the recovery of materials from wastes.

### Part 6 Agricultural Buildings and Operations

New Class D

The erection of structures to house biomass boilers and anaerobic digesters (provided only waste generated on the farm holding is disposed of) to be subject to the Minor Development Procedure.

New Class E

Importation of waste for landfill and other operations to be subject to the Minor Development Certificate procedure.

### New Part: Waste Processing Facilities and Incinerators

Works to existing facilities subject to the following limitations:

- max 100 sq m floorspace for new buildings
- max 100 sq m for extensions and alterations to buildings up to max of 25 per cent additional floorspace
- extensions to be no higher than existing building, and max 5m if within 10m of a boundary
- new buildings and extensions to be no closer than 5m to any boundary and no closer to a highway than any existing building
- not within curtilage of a listed building
- no loss of turning/manoeuvring space for vehicles
- max 50 per cent ground coverage

- materials to match
- new porous hardstanding up to 50 sq m (provided not used for waste processing)
- no basements in Flood Risk Zones 2 and 3 or ground/surface water flood risk areas identified in SFRA's
- new storage bays up to 4m high
- installation of boreholes for environmental monitoring

### New Part: Landfill Sites

The following works may be carried out on existing sites:

- installation of boreholes for environmental monitoring
- installation of leachate management infrastructure
- installation of odour control systems
- erection of litter fencing up to 6m above made ground level
- provision of sewers, mains, cables, pipes or other
- installation of environmental monitoring equipment for gas, surface water and groundwater
- storage of topsoil and restoration materials up to 3m high

The following works may be carried out subject to a Minor Development Certificate:

- relocation of internal haul roads
- erection of temporary buildings
- installation of weighbridges and wheelwashes
- replacement plant and equipment

## 14.9 Estimated Potential Savings in Planning Application Numbers

As noted above, our sample of 504 minor planning applications included just four waste applications, none of which would have been saved under our proposed changes. In our view overall levels of savings in minor waste applications are unlikely to be high when extrapolated nationally, but in two key areas significant savings could be delivered:

- county Councils, whose primary development control function is minerals and waste, could potentially achieve significant reductions in their workload through reduced numbers of minor waste applications, allowing them to focus their resources on the strategic aspects of waste management planning
- for larger waste management firms in England and Wales, especially those operating either waste processing plants or landfill sites, significant savings could be expected both in terms of their being able to respond more quickly to regulatory and market changes, and in terms of reducing their costs for submitting planning applications.

Table 25: Waste management: summary of implications of recommendations

RECOMMENDATION	IMPLICATIONS					
	ECONOMIC	ENVIRONMENTAL	POLICY	SOCIAL		
Part 2 Minor Operations: new Class D which allows for the storage, sorting and transfer of non-hazardous waste which is ancillary to an existing business	<p>✓ Reduces application costs in the preparation of planning applications</p> <p>✓ Reduces LPA resources devoted to determining planning applications</p> <p>✗ Reduces LPA fee income</p>	<p>✓ Reduces the impact of inappropriate storage</p>	<p>✓ Supports the aims of recycling and waste minimisation</p>	<p>✓ Contributes to the awareness of waste issues</p>	✓	
Part 4 Temporary buildings and Uses: Class A amended to clarify that concrete crushers and other plant are moveable structures 'permitted development'	<p>✓ Reduces LPA resources devoted to determining planning applications</p> <p>✓ Clarifies process for LPAs and operators</p>	<p>✓ Encourages the sustainable on-site recycling of building rubble etc thereby reducing the need for off-site landfill</p>	<p>✓ Supports government policy aimed at moving waste management up the waste hierarchy</p>		○	
Part 3 Changes of Use: new Class I to allow interchange between B2 and waste processing	<p>✓ Reduces LPA resources devoted to determining planning applications</p> <p>✓ Clarifies process for LPAs and operators</p>	<p>Moderate risk of adverse environmental impacts to third parties</p>	<p>✗ Encourages waste processing operations to make use of existing industrial facilities</p>		○	

RECOMMENDATION	IMPLICATIONS					
	ECONOMIC	ENVIRONMENTAL	POLICY	SOCIAL		
Part 6 Agricultural Buildings and Operations: new Class D encouraging the incineration and anaerobic digestion of agricultural biomass on-farm	<p>✓</p> <p>Reduces application costs in the preparation of planning applications</p> <p>✓</p> <p>Reduces LPA resources devoted to determining planning applications</p>	<p>✓</p> <p>Reduces the need for off-site disposal of bio-mass</p> <p>Low risk of adverse third party impacts</p>	<p>✓</p> <p>In line with proposed increase in microgeneration of power</p>	<p>✓</p> <p>Contributes to sustainable energy and waste minimisation</p>	✓	
Part 6 Agricultural Buildings and Operations, and Part 7 Forestry Buildings and Operations: new Classes E and B tightening up on the importation of wastes for agricultural purposes for example tracks, hardstandings and the storage and sorting of agricultural waste within an existing agricultural building	<p>✓</p> <p>Reduces application costs in the preparation of planning applications</p> <p>✓</p> <p>Reduces LPA resources devoted to determining planning applications</p> <p>✗</p> <p>Reduces LPA fee income</p> <p>✓</p> <p>The reduction in inappropriate disposal of waste for agricultural improvements will lead to more waste going to landfill sites and landfill tax being paid</p>	<p>✓</p> <p>Reduces the impact of inappropriate storage</p> <p>✓</p> <p>Reduces any potential abuse of the planning regulations for the inappropriate disposal of waste for agricultural improvements</p>	<p>✓</p> <p>Supports the aims of responsible waste disposal or recycling</p>	<p>✓</p> <p>Contributes to sustainable waste management</p>	✓	

RECOMMENDATION	IMPLICATIONS					
	ECONOMIC	ENVIRONMENTAL	POLICY	SOCIAL		
New Part 45 allowing works to waste processing facilities	Reduces application costs in the preparation of planning applications	Moderate potential for adverse third party impacts	Supports government policy aimed at moving waste management up the waste hierarchy	Contributes to the efficient operation of a site reducing impact on local residents	✓	✓
	Reduces LPA resources devoted to determining planning applications				✓	
	Reduces LPA fee income				X	
	Allows for the efficient operations at existing waste management developments					✓

RECOMMENDATION	IMPLICATIONS					
	ECONOMIC	ENVIRONMENTAL	POLICY	SOCIAL		
New Part 46 allowing works to landfill sites	Reduces application costs in the preparation of planning applications	✓	Encourages speedy response to operational matters	✓	Supports the aims of responsible waste management	✓
	Reduces LPA resources devoted to determining planning applications	✓				
	Reduces LPA fee income	X				
	Allows for the efficient operations at existing landfill sites	✓				
				Contributes to the efficient operation of a site reducing impact on local residents		✓

**LEGEND**

- ✓ Positive impact
- O No impact
- X Negative impact

# 15 Conclusion

## 15.1 Summary

This has been a wide-ranging study that has taken us into most areas of planning policy in England and Wales. Our recommendations, which are listed at the start of this report, propose a package of measures that would modernise the GPDO as a whole (chapter 5), reform the system of prior approval (chapter 6) and establish permitted development rights for categories of development where a full planning application is now required (chapters 8 to 14).

Our brief instructed us to review and make recommendations for reforming permitted development rights in general and the GPDO in particular on the basis that the focus of planning should be rebalanced towards developments that matter most. As Kate Barker proposes, and as we explain in chapter 3, our approach in responding to our brief has been based on the kind of ‘impact’ principles that planning authorities use to assess full planning applications.

We have specifically targeted those types of development which for reasons of historical accident as much as anything else have not benefited from ‘permitted development’ rights. These include shops, restaurants, offices, hotels, community buildings, leisure facilities, flats and waste management facilities.

Our recommendations envisage amendments to Parts 1, 2, 3, 4, 5, 6, 7, 8, 12, 13-17 and 33 of the current GPDO and the creation of five new Parts. The very large majority of these would mean a relaxation of planning controls in line with the intentions of the Planning white paper. In our view these would secure an appreciable reduction in the volume of planning applications, without causing undue harm to neighbouring occupiers, the wider community or the environment as a whole.

In addition, however, there are a few areas where we propose that ‘permitted development’ rights need to be drawn more tightly than they are now – in other words they will extend regulatory controls. Although these cases were not the priority for our review, we consider the case for making them is very strong, and we have justified them both in the topic chapters and in the summary of recommendations.

Our recommendations are founded on a strong evidence base which includes: input from key stakeholders at Sound Boards; telephone interviews with Senior LPA Planners; and a literature review including previous studies by Nathaniel Lichfield and Heriot Watt; written submissions; and an analysis of over 500 minor applications at 24 LPAs.

## 15.2 Indicative savings in planning application numbers

We have been asked to provide our best estimate of the number of planning applications that our recommendations would take out of the system. Each of the topic chapters above has, where the sample size allows, provided an estimate of potential savings based on our analysis of LPA weekly lists described in chapter 5.

Table 26 aggregates the savings of the planning applications from our Weekly List analysis (see chapter 4) were all of our recommendations to be implemented. It is notable that the key area of savings relates to retail developments, with other significant savings being generated by offices and non-residential institutions. All three categories are united by the fact that none presently benefits from 'permitted development' rights.

In terms of the type of developments which generate most savings, shop fronts are shown to have the greatest potential to reduce application numbers, though it should be recognised that the saved applications would be converted to Minor Development Certificates rather than being taken out of the system entirely. Significant numbers of plant and machinery applications would similarly be converted to Minor Development Certificates, along with a smaller number of ATM applications.

In terms of applications which would be taken out of the system entirely, it is unsurprisingly the most modest changes to buildings – minor alterations and disability accesses – which generate most potential savings. Extensions to buildings generate a modest level of savings, whilst new buildings show the least potential to generate savings, which is to be expected given that a revised GPDO will take an impacts-based approach, and freestanding buildings are likely to have the greatest capacity to impact adversely on third parties and sensitive areas.



	New Buildings	Extensions to Buildings	Minor Alterations	Plant & Equipment	Disability Accesses	Shop Fronts	ATMs	Fences, Walls and Gates	Vehicular Accesses	Temporary Developments or Uses	Other eg new dwellings, telecom masts	TOTAL
17 Assembly and Leisure D2		1		1								2
18 Agriculture		2										2
19 Forestry												0
20 Equestrian		1										1
21 Rural Tourism eg caravans, camp sites												0
22 Ports/Airports												0
23 Flood Defence Works												0
24 Utilities/Statutory Undertakers												0
25 Telecommunications												0
26 Dwellings C3												0
27 Extensions/Alterations to Flats												0
28 Waste Disposal												0
29 Waste Water Disposal												0
30 Other												0
<b>TOTAL</b>	<b>3</b>	<b>15</b>	<b>17</b>	<b>19</b>	<b>16</b>	<b>26</b>	<b>9</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>105</b>

The overall level of saved applications in our sample is 105 out of a total of 504 minor applications, equivalent to a saving of 20.8 per cent. Of the 105 applications saved, 55 would be converted to Minor Development Certificates and 50 would be saved outright. Extrapolating these figures to the whole of England and Wales, the savings shown in table 27 would be achieved.

**Table 27: Estimate of savings in the applications numbers**

	Study Sample	England (2006/7)	Wales (2006/7)	England and Wales (2006/7)
% applications saved outright	9.92%	9.92%	9.92%	9.92%
No. of applications saved outright	50	14,989	1,275	16,264
% applications converted to MDCs	10.91%	10.91%	10.91%	10.91%
No. of applications converted to MDCs	55	16,485	1,403	17,888
Total reduction in applications	105	31,474	2,678	34,152
Total minor applications	504	151,100	12,861	163,961

The potential savings shown need to be caveated in the following respects:

- although the overall sample of minor applications, at 504, is sizeable, at a disaggregated level only a small number of applications have been sampled in certain use classes, with the attendant risk that an unrepresentative sample could skew the result. However, at an aggregated level such skewed results are likely to cancel each other out, so that the overall level of savings predicted may be treated with a degree of confidence.
- no estimate has been made of increased application numbers resulting from the small additional controls which we have recommended, because there is no statistical evidence on which to base such estimates. We do not believe that the level of additional applications generated will be significant, but it will inevitably impact to some degree on the overall level of savings predicted
- conversely, there will be savings associated with enhanced 'permitted development' rights for rural areas, flats and waste management, which are not reflected in the savings estimated presented here because they did not appear in our sample. In this respect the level of savings predicted represents an underestimate

- the conversion of a planning application to a Minor Development Certificate may not be regarded as a true saving – though in our view it is because it represents a reduced level of resources needed by both LPA and applicant in preparing and processing applications. The number of applications which would be completely removed from the system as a result of our proposals would be 16,264 per annum

Table 28: Estimates of fees saved					
	Estimated annual applications				Total
	Totally removed from the system		Becoming MDCs		
	England	Wales	England	Wales	
Applications 'saved'	14,989	1,275	16,485	1,403	34,152
Fee saved per application	£355 (current fee for minor development)		£205 (difference between current fee and suggested £150 MDC fee)		
Equates to an annual saving in application fees	£5,321,095	£452,625	£3,379,425	£287,615	<b>£9,440,760</b>

Table 28 suggests what the savings to applicants in terms of fees might be. These figures represent no more than a crude approximation of potential savings. They reflect a statistically very small sample and too much must not be read into them.

The only “loser” in financial terms might be the farming industry, which presently submits the bulk of Prior Approval applications to LPAs. Currently farmers pay £70 (£59 in Wales) to submit a Prior Approval application. There are no statistics to show how many Prior Approvals are processed annually, and hence we cannot estimate the costs to farmers from the proposed increase in fees for Minor Development Certificates. The flip side of the coin is that rural LPAs, who it is estimated lose money on every Prior Approval they deal with, would be able to cover their costs if the fees for Minor Development Certificates were uplifted as suggested.

### 15.3 The Next Steps

During this project we have frequently been asked what will be done with our report and its recommendations. We have been careful to explain that this is a question not for us but for Communities and Local Government. Nevertheless a number of suggestions have been made to us by stakeholders

and we hope that it will be helpful to finish our report with some thoughts about these questions.

### **Further Impact Assessment**

While our efforts described in section 15.2 above to demonstrate what the changes would mean in terms of the reduction in application numbers, they provide an inadequate basis for amending the regulations. A far fuller regulatory impact analysis than we have been able to do is required.

### **A detailed programme of consultation**

Our review has required us to evaluate a very wide range of environmentally based policies in a relatively short space of time and an almost limitless number of stakeholders is potentially affected by our consequent recommendations. Wherever possible we have sought out the views of as many of these stakeholders as we have been able given the study's limitations in terms of time and manpower, and we hope we have recorded faithfully within this report the views presented to us. But we are aware that we have barely scratched the surface of the overall level of consultation that our recommendations will demand. As a result much more consultation on these recommendations is required.

Experience of previous efforts to modernise aspects of the GPDO (as opposed to introducing further ad hoc amendments) has shown that the current review will constitute only the start of a lengthy process of reform, the eventual outcomes of which remain highly uncertain. Chapter 2 has demonstrated how, where permitted development rights are concerned, the forces that resist reform tend to outweigh those that promote it, however desirable the eventual reforms may be. This is well illustrated by the lack of follow through of the Lichfield review's recommendations, and to continuing delays in bringing into effect recommendations from the HDCR and the reviews of microgeneration.

We suspect that in each of these cases difficulties have arisen because of the diverse range of policies that permitted development rights affect and because of real problems in reconciling them with the diversity of interest groups all of which are concerned that their objectives should be reflected in the eventual outcome. In short, the task of modernizing the system is becoming increasingly onerous.

In our view, the way to address this situation will be by drawing up a programme for delivering the reforms that Barker has recommended with appropriate milestones designed to ensure that momentum can be maintained. At the heart of this programme should be a carefully designed process of consultation that ensures everyone has an opportunity to input their views which must be properly evaluated and responded to. This process needs to be managed so that decisions can be taken and progress achieved.

Such a programme might commence by referring our report to key groups and organizations who are most experienced with the challenges of

development management and whose insights, and experience would deepen the evidence base that will be so important for the effectiveness of any changes to the system, and generally add much value to our report and its recommendations. In our view, these groups might include:

- The Planning Inspectorate
- The Planning Officers Society
- The Waste Planning Officers Society
- The Environment Agency
- The RTPI's Development Management network
- The RTPI's National Association of Planning Enforcement Officers
- The Planning Advisory Service

Having had an opportunity to consider our report recommendations, these groups could be invited to discuss them at a structured workshop. The outcome of the discussions would help Communities and Local Government to evaluate and where appropriate amend the report's recommendations which should then be subjected to a full process of public consultation.

### **Wider reforms to the GPDO**

The whole process would be very much easier if the GPDO had not grown into its present unwieldy state. In our view, the recommendations in chapter 5 which relate to the reform of the GPDO as a whole should become a vital part of a wider regulatory reform initiative closely tied into the wider need to modernise the planning system. As more and more demands are being placed on the GPDO (for example those relating to sustainability and climate change issues that we have identified in chapter 7) pressures for further changes to it will grow while the ability to make those changes will become increasingly compromised by every piecemeal change that is made.

Were the Order to be broken into individual parts, rather like the Building Regulations, it would become far easier to amend and update individual sections as required.

### **Making the GPDO more accessible to users**

And, just as important, an initiative of this kind would provide the opportunity to take the GPDO out from the preserve of the professional planners and lawyers who tend to be the only people who properly understand it and to design it in a way that better meets the needs of day to day users who just need to know what the planning system demands of them. As the purpose of the GPDO is to set out what kinds of minor development should not require a planning application, presenting this information in a way that the general public can understand would not be asking a lot.

The case for this more fundamental modernisation of the system needs to be considered more fully than has been possible in this review. In particular, it requires a more detailed consideration of the costs that are being created by the present system's growing complexity. What efforts will be required,

either now or later on, to make it more fit for its purpose of best responding to the incalculable small scale changes to both our built and our natural environments in an increasingly challenging future?

# Appendix 1 – Interviews with Development Control Managers

## Sample Pro-forma

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### LPA

### Name of respondent

### Position

### Contact details

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#### 1. Development Control – General Issues

- What are the main areas of pressure in development control? – are minor developments one of them?
- If so, is the main pressure in relation to:
  - i) householder developments
  - ii) residential schemes (up to 10 houses)
  - iii) retail schemes
  - iv) office/industrial
  - v) agricultural
  - vi) telecoms masts
  - vii) waste
  - viii) another area?
- What are the resourcing implications of minor developments – are they usually dealt with by senior planners or planning assistants?
- Do you see any benefit in trying to reduce application numbers in these areas?

- What are the likely benefits of reducing applications for minor developments, as compared to a reduction in applications for householder developments?
- What are the likely implications of reducing minor applications for your organisation eg staff deployment, training, fee income?
- What are your views on the strengths and weaknesses of the current GPDO (excluding householder and telecoms)?

## **2. Permitted Development and Minor Developments:**

- In general do you consider there is scope to increase 'permitted development' rights for minor developments?
- If so, in which areas?
- How would you change "pd" rights in these areas?
- Any views on
  - i) shopfronts
  - ii) ATM's?
  - iii) flats?
  - iv) equestrianism?

## **3. Article 4s**

- Would an increase in "pd" rights be likely to lead to increased pressure for Article 4 Directions?
- How would you view this?

## **4. Prior Approvals**

- What is your view of the Prior Approvals system?
- How many Prior Approvals does your authority receive in a year (est)?
- On average how long does a Prior Approval take to deal with (est)?
- Is there a difference between agricultural and telecoms prior approvals in terms of officer time?
- Are telecoms Prior Approvals dealt with differently from telecoms planning applications, and are the resourcing implications different?

- Do you as common practice seek further details, as allowed for under the Prior Approvals procedures, for either agricultural or telecoms proposals?
- Have you perceived an issue with Part 17 rights for rail operators to erect masts being subsequently exploited by telecoms operators?
- Would you like to see the system of Prior Approvals extended/remain unchanged/abolished?

## 5. Follow up

- In relation to minor proposals such as shopfronts, ATM's, industrial developments, agricultural/equestrian developments, telecoms masts, subdivision to flats:
  - a) are there any local pressure groups that we might contact for comment?
  - b) Are there any local Members at your authority who might be willing to talk to us?

(record names, position, telephone, email address)

- Would you or anyone in your organisation like to attend one of our Sounding Boards in October on any of these topics?
  - i) rural
  - ii) town centre
  - iii) flats
  - iv) waste

(record names, position, telephone, email addresses)

## Summary of Responses

### 1. Development Control – General Issues

- What are the main areas of pressure in development control? Are minor developments one of them? Where are the main pressures from minor applications?
  - more minor apps than average but not a problem in terms of performance or loss of appeals. Householder devs are the major pressures – especially dormer windows, hard standings. Telecoms are very sensitive

- minor developments are not a major issue. Telecoms masts a big area. Sewage and water authorities on operational land are also an issue
- small applications no longer cause too much difficulty – all are delegated as routine. Householder developments provide the main workload. Minor apps aren't a drain on org. Major applications are our main pressure
- general problem is the lack of staff. Householder applications our major category – all of them difficult. Other categories are common too. Ours is an affluent area and there is a strong public input. Solicitors are particularly aggressive
- no. Minor residential developments are our main workload
- numbers are the problem – mainly for householder applications. We would prefer to get apps right before submission. Targets mean planners time is spent on applications which are measured. Pre-application advice is given to big applications. Small applications don't get much
- members are not focused on minor developments – only talk in general terms. We spend a lot of time trying to improve shop fronts
- ours is a small authority in a highly desirable environment. Main issues arise from agricultural development esp diversification away from it – eg to small caravan, or equestrianism. Pressures relate to businesses and tourism and town centres. There is little land for development especially for industrial and commercial expansion. The NIMBY factor is intense. But minor apps don't delay too much
- planning is growing more complicated – its all becoming about the process with legal issues paramount. Quality of outcome is seen less as a priority. Householder applications provide the main caseload
- householder applications are our main pressure
- tendency for minor developments to take up increasing officer time. Often linked to other disputes especially on larger sites. The legal side is becoming more problematic. More scope for relaxing industrial rather than domestic pd. Larger sites have capacity to extend pd on large sites. Especially with agricultural devs
- minor applications, especially householder take up resources. They add value, but we would welcome reductions

- yes – esp tightening of the screw for new development. Fewer and fewer new developments take place so there is more demand for minor extensions to existing properties, especially householder. There is a new breed of landowner in the park and their land use expectations have changed
- Do you see any benefit in trying to reduce application numbers in these areas?
  - there would be obvious benefits, but the concern is getting it right
  - at the margins. Changes might create more work
  - hard to see there would be much change
  - not top of priorities – too much site specific. More scope for cutting householder apps
  - enforcement, disputes, more conditions
  - mainly for householder esp as so much heritage in commercial core
  - useful to extend 'p.d' in theory, but huge number of owner/occupiers might want further controls
  - minor applications add value. Even for simple things. Concern about reducing numbers too much
  - yes – get rid of the dross – esp householder apps. Admin for minor apps is similar to major
  - the question is what is minor dev? Members want to control more
  - reducing minor apps would free resources for more complex schemes. Benefits from applicants, but other issues with neighbours etc. Any other model will have to deal with those conflicts
  - minor apps add value for national park. No benefits from reducing rights. I'm concerned that this would lead to ignorant infringement of Habitat regs
- What are the likely implications of reducing minor applications for your organisation eg staff deployment, training, fee income?
  - free up staff time, but few apps are unnecessary. Run a very pared down service. Major team is under resourced. Minor apps don't cover fees
  - not much. Small applications about cover costs. Marginal changes should not lead to more work

- more routine apps would be transferred to hhlder team. Main teams would be able to focus on pre app. This would be welcomed by all – hhlder teams get more variety, others have more time for the schemes
- staff reallocation
- there would be an opportunity for more important work. Loss of fee income would be a problem as we would want to maintain spend
- planners should focus on wider issues. However big applications generate most fees – taking out minor developments might not have such an impact
- reducing numbers would allow more time on large apps, but huge benefits from them
- a drop in fees would be a concern, but we would move resources to other developments
- major apps probably subsidise minor ones so may have benefits
- minor apps are a drain on resources, fees not high enough, except for agriculture – large sheds cost lots. Changes might create more work
- assuming same budget would allow reallocation, but reduced income may reduce service. Generally major apps subsidise smaller ones – some minor apps cause a lot of work
- third party involvement is growing. Boundary disputes. Fewer opportunities for preapplication discussions
- What are your views on the strengths and weaknesses of the current GPDO (excluding householder and telecoms)?
  - it has its flaws. But most people are familiar with it, and it works overall. Offers a reasonable level of control
  - its complexity in interpretation
  - the Telecoms rights are poor
  - main problem is its complexity esp part 17 (stat undertakers) – have to move to other legislation. Need for guidance, cross referencing. Interpretation is problematic. Waste of time and resources
  - it is confusing
  - complexity

- misinterpretation of GPDO generating unnecessary applications
- generally, a good doc. Comfortable with encyclopedia. Agriculture is over complex
- scope for change. Similar to what was done with the HDCR
- unfocused on impact, complex and confusing. Too many parts
- Very complex set of rules for public to deal with. Question do I need planning consent? Starting point should be to simplify the system – start from scratch. But will always need a GPDO as it provides a National system
- it is over- complicated and needs reworking to make it more accessible. People act in ignorance of their rights – esp for protected areas. Would like a separate set for Article 1.5 land

## 2. Permitted Development and Minor Developments

- In general do you consider there is scope to increase 'permitted development' rights for minor developments?
  - problem is that there will always be so many exceptions it will be difficult.
  - yes. I don't agree with the view that the more control the better
  - we especially need to clarify 'adjacent to a highway'
  - not much – members want more control over small development
  - opportunity to extend in large sites. Use design guide and enforce strongly
  - system needs a major makeover. Don't just make concessions just to allow bigger things but simplify – think of what you're trying to achieve
  - none
- Any views on relaxing rights for:
  - i) Shopfronts
    - not in CAs, where we want to retain levels of control
    - it would ease matters outside CAs, but members may be concerned

- CAs apart, can't see why not. However use the applications are helpful to ensure DDA regulations. – maybe building regs could take this up
- important to be able to retain character of those
- some concerns but most retail are in CAs so may be relax outside
- could be relaxed outside CAs
- I would not support. We spend a lot of time trying to improve shop fronts
- in CAs should remain as now. Out of town units could be freed up
- keep as now. Shopfronts are very visible
- relax on shutters and disabled access
- retain control in retail cores even outside CAs for revitalising and retaining identities of market towns. Strong public realm interest
- could allow at the rear but not dev that affects the public domain shops are an important part of street scene
- existing controls add value

ii) ATMs?

- could be greater flexibility
- police sometimes comment in high crime areas but could be a case for relaxation
- need to ensure not too close to pedestrian crossings or traffic junctions
- OK outside CAs or listed but possible highway concerns
- possible concern about opening hours. Also levels of illumination
- protect against traffic problems on dangerous corners
- only issue is signage in conservation areas
- derestriction can affect frontages on corner of alleyways. Or blank off frontages
- could relax, but retain stipulations about disabled access etc

- OK to relax
- no strong view. Could relax – some issues of location in terms of highway
- problems on listed buildings, otherwise OK
- we can usually make better suggestions

iii) Flats – pd rights to extend, or house conversion into flats?

- pd rights for flats from houses can be complex, can affect other occupants – amenity or outlook. May be OK to convert a property into 2 flats
- unfair that flats don't have rights esp on converted houses
- few major concerns about conversions to 2 flats
- OK for a minor change eg a new opening. Otherwise no – interfere with other occupants, and concerns about students
- conversion of a house to 2 flats would cause problems, parking, loss/change of character in street, big political resistance
- roof works OK. Might be OK but gives more rights to ground floor users. Could have effect on neighbours. Concerns about convert 1 house to 2 – parking and 2 front doors
- pd for extending would have carparking concerns. Relaxing conversion would raise issues over car parking, refuse collection, loss of family accom, cycle parking.
- align better with houses. Flats shouldn't lose pd rights esp for windows, doors on the same elevation or small extensions
- good idea – to extend pd for maisonettes, and flats with gardens. One into two could work. Neighbours expect to be protected. People try to get too many flats into house
- could make small scale changes, but not converting a house to flats
- why no pd rights for flats? Ok for external alterations but not extensions. Don't like conversion of one house to flat
- why do pd rights rule out converted flats? Conversion 1 to 2 flats might be acceptable

- concerns about changing the character of the area. Intensification is a worry. Building regs couldn't handle extra responsibility from converting a house to flats
- keep pd rights for flats. Converting into 2 flats might be OK, but in some areas, students would be a problem. Member concern
- we exercise our powers and would like to apply them to dwelling houses which are pd. Concern about converting house into flats would add to parking & traffic generation

#### iv) Equestrianism?

- often contentious involving building where these would be resisted. Probably worse close to cities.
- many apps for stables in green belt. What are small scale stables? There should be a figure. Suggest 34m<sup>2</sup> = 2 stables and a tack room
- key thing is to retain green belt character
- reuse of agricultural buildings for equestrian could be pd as traffic and waste impacts are the same. Stabling raises other issues
  - proximity to houses – waste disposal, Exercise rings/riding arenas an issue – large buildings, hard to make them 'p.d' often occur in urban fringe/greenbelt – openness? Major visual issues, including post and rail fences.
- keep existing controls. Cumulative effects of changes to agricultural landscape can be serious – jumps etc
- could allow small numbers of stables subject to access. Need a clearer definition of equestrianism
- not really an issue here, but it does lead to some clutter in fields
- proliferation of stables which look like bungalows. Terrific impact on character of the landscape
- can affect urban fringe. Keep things as they are
- need to retain controls although people don't understand them
  - too many operate without consent. Growing number of applications causing retrospective applications. Leads to demands for specialist buildings – causes cumulative impacts ranch fencing, tack rooms

## v) Other?

- flats above shops need clarification. Reverting back to retail. Maybe consider allowing more pd on larger plots
- extend and simplify Schools, colleges. Industrial warehouses
- changes to industry and warehouses. Where affecting appearance, what is material? Planning authorities too often play safe
- industrial areas
- industrial – pd could be enlarged on ind estates not abutting residential use
- flues on takeaways Not good use of planning time. Industrial ‘p.d’. Plant and machinery. Silos on long established industrial premises. Part 12. Many areas can be ‘p.d’ ?
- minor extensions for new farm buildings eg Rooflights, dormers could be pd, also industrial or university premises within their own complex
- temporary uses are a problem – under Part 4 can be misunderstood. Better cross referencing is needed – eg part 5 and 2. Part 11 – can be used to circumvent normal planning, Part 12 – when parks became separate orgs, National Parks not covered by regs in definitions. For Part 13 there is lack of awareness how the GPDO and EIA regs work together in relation to works in a national park. Highways Authorities claim they don’t need to comply

**3. Article 4s**

- Would an increase in “pd” rights be likely to lead to increased pressure for Article 4 Directions? How would you view this?
  - we use article 4s extensively and pressures for more would increase. Would welcome a more liberal regime – more local context. But compensation is a worry
  - pressures would increase. Not many at present. Problematic. Not sure they would add much. They are usually made too late
  - use them sparingly mainly in association with CAs. Could be introduced eg for house to 2 flats
  - don’t use article 4s because of resources – large number of CAs already cause work. But there is pressure for them and we would like more

- only 1 in our Authority. They remove consistency throughout the City and would cause error and complaint
- have few Article 4s, but there is potential for more, especially retail outside CAs where we want to retain a unified design. More would help to focus attention where it is required, but difficult to bring into effect
- only used in Conservation Areas. More would generate a lot of applications (no fee) – will discourage CPAs unless very good reasons
- probably. But not used much. More Article 4s would mean more complications
- ought to be more for CAs. We don't pursue them because of resources. Would welcome looser art 4s regs esp to remove hard standing rights for listed buildings
- when CAs are reviewed would be considered. Happy about this
- yes pressures would increase – especially in CAs. There could be resource implications
- none in the area. Might cause pressures. Needs another look but we are not keen
- should like to use them more, but resources are the problem

#### 4. Prior Approvals

- What is your view of the Prior Approvals system? What should be done with them?
  - had little experience, but seems to be a rubber stamping exercise. A nuisance. Abolish as they don't work
  - the problem is Telecoms – people don't understand distinction with planning app. As intensive as planning. Abolish
  - treat like a planning application esp with telecoms. No Opinion on change
  - nobody knows how to apply them. Abolish
  - leads to confusion and problems with members. Abolish
  - too complicated. Creates confusion. We have no agriculture prior apps. Abolish
  - good area to tidy up. Work well for farmers, but hobby farmers an issue as want buildings for other uses

- OK but can be confusing for communities. Equally burdensome for LPA. Keep as now
- no one – planners or farmers – understands it, cause problems for all esp telecoms. Badly worded regs. Abolish
- confusing. Telecoms a particular problem. Abolish. Planning system is already too complex without the halfway house of prior approvals
- needs simplifying – people confused. Good thing esp for ag could extend to industry. Telecoms are a problem. Need tightening for farm and forestry tracks
- don't like it. Time limited when issues are the same. Abolish
- there are too limited opportunities to challenge them. Don't extend, although do for microgen if it's to be pd in National parks

# Appendix 2 – Summary of Written Representations

To supplement the evidence that we obtained from the activities described in this chapter we wanted to publicise our review as widely as possible. Planning Magazine published an account of our project which elicited a dozen or so responses. Our attempts to widen this further by using other trade journals were unsuccessful but we managed to make contact with a number of other stakeholders by contacting trade and professional organisations. Where requested we agreed to meet groups which wished to present their comments.

This appendix summarises the key points made to us. References to these comments are made in the chapters of the report.

## 1. Bourne Leisure

Part 5, Class B permitted development rights should be clarified in new guidance, to explain what elements of a caravan park the site licence conditions should cover and how they should be drafted. The caravan park site licence conditions should give permitted development rights for any sanitary and other essential services and facilities not included in the planning permission, and for replacement sanitary facilities, roads and hard landscaping etc., when replacing such ancillary development implemented following the express grant of planning permission and/or the site licence. There could be scope for some proposals to be subject to a written approval procedure, requiring precommencement approval in writing from the LPA within a fixed time period.

There should also be new permitted development rights for minor extensions to central facilities, for small new buildings that are ancillary to the caravan park use and for replacement plant and machinery.

## 2. British Holiday and Home Parks Association

Part 5: Much minor development within existing caravan parks relates to existing infrastructure, site layout and facilities and has little significant impact yet requires full planning permission. Three changes are proposed to simplify the process and provide more consistency in respect of the need for planning permission on different sites, which is currently dependent on the detail of the site licence rather than the development itself.

- clarification of Class B – omit requirement for works to be specified on the site licence. While the existing position should remain where all works specified on the licence are classed as permitted development, operators whose licence does not make such provisions would no longer be disadvantaged and could carry out a number of ancillary works as permitted development

- introduce an additional Class C for minor alterations and extensions to existing ancillary buildings on the site. A sensible approach would be to say that such works should be in materials to match, should not exceed the height of the existing building; and should not increase the floor-space of the existing building by more than 30 per cent
- an additional Class D for erection of new buildings on the site up to 150 m<sup>3</sup> for a purpose ancillary uses. A prior notification procedure could apply.

### 3. British Waterways

Minor applications can potentially affect the safety and structural integrity of any waterway, reservoir, canal feeder channel, watercourse, let off or culvert owned or managed by British Waterways and can potentially affect the safety of users and neighbours. British Waterways therefore requests that any minor development where they are located adjacent to or in close proximity to a waterway and involve digging foundations, should not benefit from permitted development rights. Such developments should remain as one of the categories of development that require planning consent. Otherwise, BW may be forced to pursue third party developers and/or landowners for claims in respect of and loss or damage to its structures.

### 4. The Camping and Caravanning Club

Any relaxation of planning requirements could compromise the Model Standards for facilities required under site licence conditions. Model Standards ensure that sites provide adequate infrastructure to accommodate the potential capacity of the site and should not be open to interpretation or deviation. However, clarification of what constitutes permitted development would, I am sure, help landowners in the development or redevelopment of caravan sites generally.

### 5. The Caravan Club

The Club's activities, are covered by Part 5, Class A permitted development rights. It is an exempted organization, as prescribed by Schedule 1 of the Caravan Sites and Control of Development Act (1960) and its sites do not require a site licence. This means the Club involves itself in the full planning process for developments and is content to do so. While greater flexibility is attractive, the relaxation of permitted development rights is not the way to achieve it. Simplistically, Part 5, Class B permits development required by the site licence, the conditions of which are guided by "Model Standards". The need for flexibility should therefore be satisfied by updated "Model Standards", framed in such a way to encompass the requirements of emerging related legislation.

## 6. Chartered Institute of Environmental Health – Wales

Town centres/retail – air con units need to be subject to a Prior Approval system. Alterations to beer gardens and outdoor seating arrangements should also be subject to Prior Approval because the changes will not only affect planning, they will affect Alcohol Licenses that will have been issued which relate to parts of land at the premises.

Care needs to be taken on flats and subdivision of houses. There are problems of unfitness and the implication in respect of the Housing Health and Safety Rating System where houses are subdivided, such as adequate means of escape in case of fire etc as well as building control issues. This is an areas where Prior Approval would be more appropriate route rather than the extension of 'pd' rights.

## 7. Chartered Institute of Environmental Health Wales

Air con units need to be subject to a Prior Approval system. Whilst there is legislation to deal with nuisance it is not drafted in the best way – in that it requires some thing that causes nuisance either to be happening and to be actually causing someone problems, or it requires the enforcing officer to know that it is going to happen and to anticipate problems.

Alterations to beer gardens and outdoor seating arrangements to restraint should also be subject to Prior Approval because the changes will not only affect planning they will affect Alcohol Licenses that will have been issued which relate to parts of land at the premises.

Agriculture/equestrian/rural: Disposal of waste needs consideration as does waste water run off.

Flats and subdivision of houses: Care needs to be taken over these. There are problems of unfitness and the implication in respect of the Housing Health and Safety Rating System where houses are subdivided, such as adequate means of escape in case of fire etc as well as building control issues. We are already aware of huge problems with unauthorized alterations to domestic properties making them into Houses in Multiple Occupation. This is an area where Prior Approval would be the most appropriate route rather than the extension of 'pd' rights.

## 8. The Late Stephen Crow – School of Urban and Regional Planning, Cardiff University,

Universities should have a free hand as to what they can do on campus sites, subject to locally agreed parameters tailored to the circumstances of the individual campus. There are two systems under which parameters could be agreed:

- the development plan, in which it was originally intended in (1948) that once sufficient detail had been determined in the plan, a local Development Order would be made granting permission for the planned development

- an agreement between the landowner and the LPA which was the original purpose of Section 106. (although written as s.25 of the 1947 Act). This provided simply for the LPA and landowner to make a binding agreement as to the development of land so that development as agreed could be permitted by Order

## 9. The Environment Agency

Support the principle of an ‘impacts-based’ approach – it mirrors our own ‘risk-based’ approach to regulation and our involvement in the planning system – as long as there is no weakening of control where it is necessary to prevent pollution of the environment or harm to human health.

Permitted Development should not ‘bypass’ the requirements of PPS25 and should incorporate flood risk reduction. For that reason, likely to resist extensions to permitted development rights in Flood Zones 2 and 3 (as such developments now require a Flood Risk Assessment (FRA) to be submitted with a planning application). This especially applies to ‘highly’ and ‘more’ vulnerable uses.

Specific Points:

- no increase in PDRs should allow extensions to existing developments or new developments that ‘by-pass’ the PPS25 sequential test. No extension of pd rights where the development is located with Flood Zones 2 or 3
- permeable paving or other forms of sustainable drainage to be required as the ‘default’ in PDRs, subject to safeguards for hard surfaces where there may be contaminated run-off
- agriculture: there may be situations where EA would want to see PDRs extended, probably with prior approval so that the farmer confirm a proposal conforms with DEFRA’s Code of Good Agricultural Practice and other relevant legislation
- industry: EA wants reassurance the interface between pollution control and planning is not compromised or complicated – i.e an extension of PDRs should not make it possible for industry to pollute without controls
- institutions: concerned that extending pd rights increases flood risks
- subterranean developments including extending into basements: concerned with the flood risks of this – particularly for residential extensions where there is potential for developments that do not allow occupants to remain safe during flooding. Recommend that no change is made to permitted development at least inside Flood Zones 2 and 3.
- waste: there may be a positive effect that extension of PDRs to waste could have on the acceptability of small scale waste management activities – they suffer from a ‘bad neighbour’ image which is reinforced by the need to apply for planning permission in almost all cases. Extension of PDR to some waste activities may normalise these activities. The most important issue is the relationship between permitted development rights for waste and pollution control permitting. Irrespective of whether waste development is permitted under planning it may fall under waste regulatory controls.

- flood Alleviation: EA currently applies for consent for new works, and has pdrs to modify existing defences. This arrangement should remain. Other undertakers should not have rights to build defences without planning permission.

### 10. Federation of Small Business (Wales)

At a presentation from the environmental dept of the City Council on the smoking policy a discussion about smoking shelters ensued and the need for planning permission in certain circumstances. When asked what the circumstances were, the advice given was that for 'all proposed developments of designated smoking areas should submit a plan for approval, whether they are needed or not'. The planning department would then reimburse those applicants who had paid for and submitted plans which would not need planning. It is expensive to draw and submit a plan, with the assistance of a legal expert, accountant and a draughtsman. Surely there should be clear guidelines as to what is and what is not permitted so that business can get on and earn money, instead of play the government planning lottery of suck it and see. In addition as a tax-payer we should be concerned at the incredible inefficiencies such a system must create with applications being passed through the system unnecessarily.

This is a case of jobs for the boys, with planning departments looking to secure bigger and bigger budgets based on perceived workloads.

### 11. The Home Office

There are concerns that poorly located ATMs can frequently act as catalysts for crime affecting both users and suppliers. Before there is any relaxation of control it is necessary to consider the impact on the installation of the ATMs from a crime/fear of crime perspective.

### 12. The Local Government Ombudsman

In reviewing this area of development management, Communities and Local Government might wish to take account of areas receiving large numbers of complaints. Problems in particular relate to:

Part 24 – Prior approvals relating to telecommunications about which about 100 complaints per year have been made over the last three years

Part 12 – Development by Local Authorities relating to skateboard/BMX facilities and the noise and anti-social behaviour that they give rise to.

### 13. Peel Ports

Part 17 Class B: Dock, pier, harbour, water transport, canal or inland undertakings and Class D; Dredgings. The application of Class Band D rights provides certainty on planning matters. The retention of existing rights is strongly supported as they are of critical importance to the operational requirements the business.

Part 18: Aviation Development: The retention of existing rights is strongly supported. Consideration should be given to increasing the 15 per cent floorspace figure for terminal expansion or alteration which would benefit fast growing airports.

#### 14. Snowdonia National Park

Various points – especially:

- it is unclear under EIA Regulations what an “urban development project” is. Theoretically, even house extensions need a “screening opinion” in a National Park before they can be built as ‘permitted development’
- although quick to create ‘permitted development’ rights for satellite dishes we have still not got around to enacting specific ‘permitted development’ rights for solar panels in National Parks, Conservation Areas or Areas of Outstanding Natural Beauty
- the meaning of ‘adjacent’ to a public highway’ is still unclear and a cause of dispute at inquiries
- a pond of more than 0.5 hectares on an agricultural holding of more than five hectares, requires prior approval. There is no size limit on a pond on a site less than 5ha if it is not for fish farming and it is reasonably necessary for other agricultural purposes on that holding

#### 15. Tesco

Retail: Support the principle of introducing a more streamlined process for minor development, for example changes to shop fronts or the repositioning of a store entrance. Allow bulk storage and dot.com facility extension up to 200 sq. m. on the basis that the additional floorspace cannot be used for retail sales. External means of escape, repositioning of entrances and provision of cash machines (ATMs) should be permitted.

Temporary Structures: Widen rights for temporary structures such as additional storage facilities in service yards during busy trading periods. Subject to written notification to the LPA in advance a period of 2 calendar months in any one year would be reasonable.

Clear guidance should be published on minor amendments to planning permission.

# Appendix 3 – Feedback from Sounding Boards

A Retail And Town Centres

B Institutions And Flats

C Rural Areas

D Waste Management

# Appendix 3a

## Retail & Town Centres Sounding Board Meeting

**Eland House, London SW1  
26th October 2007**

### Attendees

- Steve Rankin – British Property Federation
- Peter Baker – LABC
- Toyubur Rahman – Association of Town Centre Management
- Michael Hammerson – The Civic Trust
- Hannah Mummery – The Civic Trust
- Andy Ward – Harborough – London
- Kay Powell – National Planning Forum
- Daniel Lampard – National Lichfield Partnership
- Vicky Wilshaw – Savills
- Chris Turner – Royal Borough of Kensington & Chelsea
- Richard Keczkas – Speechly Legal
- Kelly Veck – Newham Borough Council
- John Simmonds – North Wilts Council
- Michael Bach – Former Communities and Local Government
- Richard Prior – Communities and Local Government
- Mario Wolf – Communities and Local Government
- Anna Wallace – Association of Convenience Stores
- Kevin Hoctor – British Chambers of Commerce

## Flipchart Feedback

### Introductory Comments

- Impact-based approach too narrow – how can good development be positively encouraged?
- GPDO allows ratchet changes of use in town centres
- What research has been undertaken into minor application numbers?

### Comments on WYG Research to date

- take account of withdrawn applications as amounts to a failure
- how many are refused then resubmitted?
- how many had pre-application discussions?
- could enforcement rise if deregulated eg plant/machinery
- many unauthorised shopfronts – enforcement
- little pre-application on shopfronts – more if have a design guide?

## Open Session

- regulatory role for BIDs? No as conflict of interest, not represent residents
- LDOs little used since 2004 as low on the agenda
- prior approvals to appear on weekly lists/be consulted on?
- prior approvals cause public confusion – don't widen them out
- compliance with design guide is subjective matters
- residents successfully argued for a better shopfront design for a Tesco than the council wanted – need public involvement
- must simplify to just one prior approval process
- civic societies interested in shopfronts
- prior approvals for shop alterations could impact on shop owner/tenant legal relationship if not notified
- more local control over article 4 directions being promoted by Communities and Local Government – not 'one size fits all'
- article 4s that take back extended PD rights are self defeating
- compensation issues for article 4s
- article 4s hard to monitor
- article 4s quite rare in England
- national GPDO does not work – had not moved with the times – must adapt GPDO to local circumstances
- local development orders through LDF to replace GPDO?
- too much 'PD' erodes property values
- need more information on Article 4s/LDOs to inform Councils
- how many Article 4s/LDOs nationally
- local awareness of LDOs/Article 4s?
- local builders/plan drawers struggle with local variations
- rename Article 4 directions
- make GPDO less opaque – explain what it is trying to do and why for lay people
- still need legally drafted document and explanatory guide
- issues of street furniture – recent improvements in town centre management, design guidance – use encouragement rather than control
- removal of inappropriate street furniture
- need to raise standards in town centres not go for lowest common denominator
- developer want certainty in shopfronts, etc.

## Suggested Changes/Opportunities

### Prior Approvals

- not as keen as I was on Prior Approval if they are not to appear in the weekly planning lists. If the idea of PA (as I understand it) is to allow a development in 6 (?) weeks if there are no objections, then not putting them in planning lists will significantly reduce the likelihood that there will be objections and there may well be

- prior Approvals (disliked by planners because of vagueness) could work if make clearer and simplified. Not currently understood at all by the public, regarded by planners as of no benefit, but the concept has value and could be worked on
- introduce Prior Approvals in some areas eg shop fronts, ATMS but subject to consultation with the police
- prior approvals do not save work and are difficult to understand
- needs simplification and plain English

### Local Development Orders

- LPAs need to have legal requirements to consider LDOs? Consultation? Public inquiries?
- use of LDOs for further tailoring of PD rights to local circumstances
- area based LDOs? eg business parks, retail parks, town centres, neighbourhood centres
- not just a GPDO to consider. LDOs – few examples. Councils have after priorities, BIDS/CABE/& CABE space
- ability for stakeholders (community/business groups) to require LPAs to consider LDOs

### Definition of Development

- very important for guidance on case law Burroughs Day vs Bristol City Council for example
- courts have held that if not seen from a place from which there is public visibility then the works are not 'development' as a consequence. Works to the exterior of a building do not automatically require planning permission, it's only if it affects the building's appearance. It's a matter of fact and degree but all too often the knee-jerk reaction by LPAs and junior staff in particular is to control it
- some works – eg rear ground floor alterations or alterations to a supermarket frontage – could be said not to materially affect the external appearance of the building

### Street Furniture

- remove PD rights for installation of above ground equipment by statutory undertakers in conservation
- more control of street furniture?
- essential to bring these under control to enable streetscape improvements to get rid of 'surplus' phoneboxes, signs, etc. Control of installation of street furniture (eg congestion charging cameras)

### Use Classes Order

- extend PD rights to change from A1 to laundry and other sui generis uses and vice versa
- importance of considering changes to UCO – add control, rather than reduce it? Allow LPA to place shape
- free charge of use between A1, A2 & A3 ie both ways
- concern – relax UCO – cause clutter. Small scale but incremental and significant

## Noise

- scope to relax – air conditioning/extraction – yes but size limits and noise limits
- pub/restaurant outside areas – largely this is not the subject of planning consents but licensing and environmental health – where is the evidence of a ‘problem’ or planning burden?
- air conditioning – the key issue is to get the right location, noise standards, etc set from the outset and not rely on enforcement action. Who does this may not matter, but there is no public advertisement or consultation in other regimes. Planning conditions are easier to enforce than prosecutions under environmental health
- air conditioning – Could be PD but what about noise impacts – especially in mixed use developments
- more fertile areas for consideration: Shopfronts and ATMs which are purely visual. Other aspects eg extracts, tables & chairs can have noise/disturbance/highway considerations
- enforcement is already in place via other services in ALA so pre-conditioned PD could be done and enforced by others in areas such as noise control and security
- smoking areas/shelters – could they be dealt with by licensing regs?
- air conditioning should be dealt with by environmental services – free up planning resources

## Disability Access

- include disabled access in PD right
- this is covered under other legislation and could be relaxed
- this can be secured through shopfront design but compliance is mandatory (except all listed buildings)
- need for best practice guide on disabled access (access for all) Has CABA done anything on this? How can we get win-wins out of this? Better design/efficient approval procedure/fair outcome
- scope for PD for disabled access
- disabled access GPDO?
- LPA procedures – preliminary analysis, reporting, signing off, delegation procedures
- DDA should be left to Building Regs

## Temporary Structures

- extend duration of temporary changes in defined trial cases – 28 days is good for xmas but not good for retail trial start up stores/ideas/innovation which need longer to test or get funding
- temporary storage units for detail units (eg at peak periods)

## Impacts

- level of impact is a judgement, it's rarely if ever an absolute
- hotels are residential buildings and there is little to distinguish them from other such buildings

- it would be good if we could encourage positive impacts, rather than spend time avoiding negative impacts ie visionary rather than negative planning
- town centres very public arenas – how would ‘impact’ be assessed?

## Design

- aim must be better planning and better design – not simply reducing figures and statistics
- ensuring this is economic, sound and environmental terms necessarily excludes design – good design doesn’t need to cost more and could arise out of business needs/aspirations, but may need encouragement, and minimum standards that can be enforced. This implies the need to consider the issues via the P/9 system
- areas *outside* conservation areas are still where people live and work and where people should have the ability to have good design and improvement of their environment. Unspoilt environments, particularly historic, outside conservation areas should not be allowed to be degraded by more uncontrolled permitted development

## Extensions and Alterations

- external works to less visible facades ie roller shutters within secure yards
- replacement plant which may be smaller, quieter and more efficient than that existing
- difficult to define PD rights for town centres only. What is acceptable will depend on size of store, proximity to neighbours, what space is used for
- introduction of PD rights for alterations for retail premises
- relax controls on minor alterations at the back of shops ie windows, doors, etc
- office buildings – entrance doors and bin stores at rear, etc. little need for control
- severe reservations about extensions/extra storey – except in very limited circumstances where no one’s amenity is reduced or where people’s amenity is *improved*
- roofscape – yes, except where large plant is erected
- in there scope for less detail on major applications? This may depend on clearer policy requirements and specifications (eg BREEAM) of standards
- PD rights for extensions must be subject to scale and impact. Impact differs dependent on adjacent uses. ie greater on an adjacent residential area rather than a commercial property
- allow replacement roof plant if no bigger/noisier than existing and if more energy efficient
- scope for outbuildings/mirror works for offices, hotels etc.
- for single storey extensions limited by height and plot coverage. Only real issue could be adverse impact on rear servicing. Could be worthy of further consideration
- green roofs

### Business Improvement Districts

- BIDs – very few across England and Wales at the moment. BIDs would be reluctant to take on this function – conflict of interest – would they get paid anyway? BIDs main business is to reduce crime and improve cleansing. Create competitive town centres
- BIDs should promote LDOs

### Article 4 Directions

- make it easier to implement a simple and understandable Article 4 system which is linked to design guides. This will make it easier to ensure good design in relatively unspoilt areas which are not conservation area or listed
- need to ensure a better evidence base ie on Article 4s, LDOs in future. Need to join up better (locally/nationally)
- increase in PD can be balanced if necessary by Article 4s which are now easier to make (without SOS referral)
- article 4 Direction – decentralise power and abolish compensation

### ATMs

- hole in the wall – could be relaxed. But not free standing ones. In the High Street or next to telephone kiosks.
- may be limited scope for ATMs but difficult to codify security issues

### Shopfronts

- increase design codes/guidelines to drive up standards. Replacement fascias for like for like should be allowed.
- national shop front design guidance could exempt in certain areas where control not so important ie outside conservation area
- need to use design guide and negotiation to drive up standards. Lowest common denominator approach will not achieve it. Local differences in character mean local design guides
- to make the uniqueness of place issue easier to deal with exclude Article 1 (5). Shopfronts in Article 1 (5) can be subject to Prior Approval or notification type of regime. Could be a 4 week period
- shopfronts and disabled access should adopt a procedure similar to advertisement control, possibly supplemented by area wide shopfront standards brought through the LDF and possible exception in heritage areas
- issue is not relax/tighten controls on shopfronts, etc as much as controls need to relate to the location and contexts much as the use
- alternative regime – prior approval or something similar to advert consent process with deemed PP for certain classes. In either case allow for a discontinuance notice process after 5/10 years
- improvements have been made in recent years due to: growth in SPGs and other local guidelines, grant regime linking to 8wk targets which for the 80 per cent that get approved first time is good. However, if 80 per cent first time approvals why not reduce time and rigmarole with consideration of other control/management mechanisms.
- difficult to see how PD for shopfronts – important public face of town centres

## General

- requirements for development management in the context of spatial planning mean seeking to meet wider objectives – need to consider how this will work if there's greater de-regulation
- need to have a clear idea of what constitutes success in terms of this project
- outcomes is the key issue. Who delivers is not the issue but desired outcomes. But relying on enforcement way not deliver the best outcome
- in there scope for less detail on major applications? This may depend on clearer policy requirements and specifications (eg BREEAM) of standards
- there is a need to achieve integrated solutions in town centres to ensure a good overall economic, social and environmental outcome
- if a large proportion of applications are currently allowed, how will taking them out of planning control ensure that bad development does not result?
- development Industry wants to ensure speed and certainty
- dangerous to have 'one size fits all' approach – many different contexts for town centres, etc
- remove 10yr limit for mixed use permissions.
- concern – control gives LPA chance to implement desires of government and maintain quality of centres. Reluctant to loose these controls
- consider local conditions? Different areas have different issues and problems
- any change will be counter productive if communities feel less empowered to have involvement in the planning of their built environment
- don't just blame the planning system – people do also try to exploit and misuse it's weaknesses!
- must benefit from good practice and experience abroad
- clear need to simplify/avoid overlap if at all possible, although increasingly complex requirements make this difficult as will increasing densities
- relaxation may lead to greater reference to enforcement. However, reason for 4yr rule is that if works have not been reported and acted upon then there is assumed to be no problem
- national planning policy needs to set a clear direction, leaving local discretion
- development management should enable planners to concentrate on key issues and to deal swiftly with straightforward/simpler issues. The issue is – how to move from development control to development management?

# Appendix 3b

## Institutions/Flats Sounding Board Meeting

**Britannia Hotel, Birmingham**  
**18th October 2007**

### Attendees

- John Simmonds – North Wilts Council
- Graham Mitchell – Birmingham City Council
- Anita Seymour – Suffolk County Council
- Phil Taylor – Royal Institute of Chartered Surveyors
- Michael McLean – Town & country Planning Association
- Peter Baker – Local Authority Building Control
- Joanna Illingworth – The Civic Trust
- Ken Brown – Department of Health
- David Cooney – Valuation Office Agency

## Flipchart Feedback

### Institutions

- self certification? No – issues too subjective
- architects don't understand system?
- self certification works for US town planning
- new 'Prior Approvals' process to clarify current system for third parties?
- remove telecoms from Prior Approvals
- self certify on noise issues for plant/air con – max noise level?  
Enforceability?
- different perceptions of noise? Boundary noise level limit?
- air con units need maintenance or noise increases
- DDA – If allow ramps, owners will not go for better internal options
- 90 per cent of disabled are not wheelchair users
- multi use hospitals/schools – night time uses?
- 10,000 sqm for hospitals subject to boundaries, height?
- cumulative – start now? Wipe the slate clean
- add 10 per cent each time?
- add 50 per cent of width subject to proximity to other buildings/  
boundaries
- treat schools differently?
- more 'PD' for larger hospitals?
- urban sites develop closer to boundaries
- large number of new classes?
- extra controls for LBs/CAs/AONBs

## Flats

- character of area, parking, noise, amenity areas, intensification, insulation for noise
- external changes to flats ok?
- conversion of houses to flats – subject to Impact Assessment eg car parking 'PD' if impact ok – Prior Approvals?
- cumulative impact of flats in a street on issue
- parking of 2 flats same as for family house?
- C/U flats applications often controversial
- converted houses could have 'PD' for sheds – save on applications?
- park homes 'PD' linked to how long park home remains
- ground floor extensions/sheds for flats affect upper floor
- occupier/shared amenity/car parking area – PD could impact on these
- extensions to flats – more parking, impact on neighbours, POS contributions
- upper floor bedrooms cause overlooking?
- porches for flats – could be PD? Consistent with houses
- hardstanding for flats? Consistency with houses
- replacement windows ok on converted house but not purpose built block
- solar panels ok
- satellite dishes not an issue when go digital
- PD for communal outbuildings for flats rather than individual applications
- flat dwellers more transient? Not any more?

## Suggested Changes/Opportunities

### Permitted Development Rights – General

- review framework of PD's and make it more practical for determination of what is acceptable to achieve PD
- the scope and scale of PD needs careful consideration compared to scale of the property being altered and extended and its proximity to neighbouring properties
- PD – to relate to per cent change to existing building
- distance from boundary
- subject to listed buildings or conservation area
- if 75 per cent of existing applications already get approved could 'pattern books' for acceptable PD designs be developed that if you adhered to would speed up the approval process (tick box design)
- size and locations of schemes to size of site. Schemes should be balanced in order not to over develop.
- possible new parts of GDPO –
- a) local authority development and functions being carried out by X on behalf of LA and
- private schools and nurseries
- b) institutions including universities, hospitals and nursing homes

### Schools/Universities/Day Nurseries

- no need to change rules re: private schools

- need to justify PD rights 5m from boundary for commercial and 20m for schools, universities and 2m for domestic dwelling houses, suggest consistency of land for commercial/industry and schools/universities
- permitted development should only be granted subject to the development being ancillary. If number of pupils or activities increase beyond standard day it should not PD
- minor alterations to school should be permitted, provided that they conform to impact based rules
- it should be stated that must apply relevant parts of GDPO before specific GDPO for Reg 3 applications eg part 2, 3, 4, 33, 25
- GDPO should be phased as a tolerance and designed as exclusive unless same materials. Extensions should reflect the slope/ridge height of host buildings
- could be limited PD rights for mobile classrooms at schools
- private schools should not have same PD rights as local authorities. LA's are assumed to be responsible bodies.
- schools and universities permitted development rights need clarification as to multi use sites eg schools with juniors and infants and hospital with more than one trust. Do you apply to each or whole site?
- should standardise private and public state/private schools permitted development
- day nurseries are often on very tight sites. Impact of PD could be unacceptable

### Nursing Homes

- permitted development rights need to take account that many nursing homes and day nurseries replicate domestic dwellings and should retain primary dwelling
- impact Assessments common sense approach review schemes, etc
- same PD rights as residential
- could be PD for nursing homes but not additional beds
- yes to more PD rights provided that extensions, etc don't lead to a large increase in resident numbers, visitor numbers, car parking, etc

### Microgeneration

- PD rights in line for proposal for house holders

### Disabled Access

- increase PD rights for schools and public institutions for DDA except for listed buildings or conservation area
- accessibility is already covered by DDA, building regs, codes of practice. But only in and immediately around the building. Do we need another form of control or should existing legislation be expanded to include transport and other issues and also be condensed to one document/controlling body
- no change to disability access except where front of building faces AONB or conservation area
- no change, except in buildings fronting conservation areas
- could be PD for DDA access under some circumstances

### Hospitals/Clinics

- hospitals could have similar PD rights to schools and universities
- PD Rights, Clinics – suggest that there should be more PD rights for mobile clinics on sports grounds, show grounds, etc
- allow PD rights for hospitals up to 10,000 sqm if within existing hospital campus, more than so many metres from boundary or no higher than existing buildings

### Plant/Equipment

- initial applications should fully include details such as extract – units/AC units etc to determine impact. Prior acceptance/PD rights should be in place for areas of use that have been pre approved
- PD rights for plant and equipment if it is not visible from any part of property boundary (including if an internal fence is erected to hide building)
- no PD rights for plant and equipment visible from highways or right of way
- these should be specified in all change of use applications, extensions, etc. Many applications for change of use from retail to restaurants/bars do not include provision for extraction systems, air con, etc. These are applied for at a later date
- noise level impacts from plant and equipment would be very difficult to enforce. Often also very unattractive

### Flood Risk

- there should be no permitted development rights in flood plains and Impact Assessments must cover drainage/run off of water

### Miscellaneous

- secondary legislation needs to be able to be understood by all. Not just designers and planners. All customers and local politicians need clearer guidance with pictorial guidance in some instances
- self certification possibility for some activities
- increasing PD rights will lead to increased number of badly designed and built extensions and alterations! Unless those controls are transferred to other controlling bodies ie Building Control in these instances only
- LA/District Councils should provide a opportunity for consistency
- need better and clear definition of 'minor work'

# Appendix 3c

## Rural Areas Sounding Board Meeting

### **Gloucester Guild Hall 11th October 2007**

#### **Attendees**

- Tim Howard – Institute of Field Archaeologists
- David Glasson – National Farmer's Union
- Basil Hollington – Wales Planning Forum
- Sandra Brown – Local Government Association
- John Simmonds – North Wiltshire Council
- Nick Croft – Gloucestershire County Council
- Fenella Collins – Country Land & Business Association
- Andrew Canning-Trigg – Natural England
- Paul Jones – The Camping & Caravanning Club
- Mike Taylor – National Association of Areas of Outstanding Natural Beauty
- Brian Richardson – The Caravan Club
- Ted Rogers – Acorus Rural Property Services

#### **Flipchart Feedback**

##### **Initial Comments**

- GPDO creaking
- don't start from scratch – beware LDF's!
- definition of agriculture needs review – DEFRA do this regularly
- cannot relax GPDO as risks to rural areas
- GPDO not generally understood
- no one understands Prior Approvals
- 76 per cent of applications permitted because of negotiations to improve schemes
- issue of ancient monuments – DCMS

##### **Prior Approvals**

- LPAs don't understand the process and try to treat them like PAs
- applicants should put as much information as possible
- 28 days? Confusion applicants had on 28 days? Or decision made?
- LPAs have to do as much work for prior approvals – very little difference.
- Explaining position takes more time!
- how do you know what is being built?
- LPAs have to make a risk judgements – is more information needed?
- build in ore impacts limitations into GPDO
- prior approval – bad term!

- prior approval gives farmers certainty
- plans need to be improved
- farmers used to prior approvals terminology
- if it is replaced, care needs to be taken as it has taken 15 years to get used to the
- existing
- Prior Approvals do have conditions attached to them – set out in GPDO
- could conditions be attached to Prior Approvals?
- on the form could applicants indicate willingness to accept conditions?
- cumbersome procedure
- caravan/campsite cannot see any benefit of Prior Approvals
- non-licensed site – would PDR allow small ancillary buildings?

### Equestrianism

- impact on landscape?
- impact on amenities of neighbours
- hardstanding/lighting
- who is to use it?
- access
- jumps and hay bales
- Areas of Outstanding Natural Beauty/National Park
- associated structures
- associated/adjacent land user
- Problems
- what does it do to the land management?
- impact of lotting?
- long term land management/detrimental to agriculture
- cumulative impact?
- equestrian needs to be separated between commercial/private/recreation use
- landscape character and land value taken into account during LDF but ignored by
- PDR
- open countryside – very vulnerable and needs to be protected

### Farm Diversification

- LPAs take into account cumulative impacts when determining applications
- the landscape's development capacity is a material consideration
- intensification of equestrian uses once get started
- intensification once farm diversification starts
- farm diversification is a grey area – 'all things to all men'
- farm shops need to be tied to farm control expansion. Selling own produce exempt
- from control
- wary of C/U without consent, need floorspace limit, no B2
- farms cause nuisance already – is diversification any worse?
- caravan storage okay?
- farm diversification in Wales and rural diversification in England
- commonest diversification – horses, tourism

- adding value processing farming products
- contracting out farm equipment, etc

### **Polytunnels/Extensive Farming/Caravans**

- polytunnels need to be separately defined in GPDO different limitations
- no regulation on polytunnels – should need PP even if temporary
- polytunnels not development if temporary
- cumulative impact of polytunnels
- cannot change definition of chattel in the Act
- pig/poultry arks – Issue of mobility
- pig arks not an issue in Wiltshire
- incomers expect pristine countryside
- caravanning – no change, should apply for toilet blocks, etc
- treated well by LPA – represent smaller caravan sites, not commercial – few impacts
- could lead to character of sites changing
- set out 1900 Act in GPDO
- scouts get camping rights – other organisations? 1936 Act

## **Suggested Changes/Opportunities**

### **Farm Diversification**

- permitted change of use to light industry, commercial storage, eg caravan storage, archive storage. (Subject to floor area restriction?) And no external alterations
- relocation of development control to allow small developments to diversification opportunity – conversion of redundant farm buildings to a new one whether land based or not
- farm shops could be okay subject to floorspace restriction, location, provision of parking, relationships with farm (difficult to enforce)
- need to be wary of farm diversification proposals since this is ill-defined and can be misused, often for unsustainable activities in the countryside
- farm Shops – Greater flexibility to sell local produce from farmers/suppliers (subject perhaps to floor area restriction)
- farm shops could be okay subject to floorspace restriction, location, provision of parking, relationships with farm (difficult to enforce)
- okay if linked to environmental acceptable practice. Without is scope of farm diversification
- possible – bring in certain forms of diversification for agriculture

### **Equestrian**

- remove development of cross county courses and control except in NP and AONB
- maybe score for PD for small scale equestrian uses/buildings subject to strict criteria – eg distance from residential, existing access, number of loose boxes, area of land
- PD rights required for single non-innovative field shelters
- PD for horses should get away from the concept of change of use

- small scale stables/loose boxes as PD (floor area limit and no fences, maneges, floodlights)
- rules need clarification
- create new PDR for equestrianism
- allow schools and horse walkers subject to notification where they are for private use
- rights for equestrian would have to distinguish between hobby and business use

### Forestry

- need tightening to prevent lotting, resulting in minor developments. Local circumstances should be relevant.
- no need for review of PDR keep as is. PDR for new buildings for renewable production and processing

### Agricultural Waste

- needs common sense! Needs clarification of what materials (waste?) can be brought onto agricultural land

### Camping and Caravanning

- no relaxation recommended to PD rights in relation to camping and caravanning
- no change to camping and caravanning exemptions under the caravan sites and control of development Act (1960)
- agree PD rights for caravan/camp sites re essential facilities not additional units
- caravan sites and caravan issues – no change
- caravan PD generally not a problem – may be score for extension

### Polytunnels

- should be allowed subject to notification eg 4658 sq m outside AONB and NP
- if genuinely temporary/moveable, if not, restrictions needed
- in general they need tighter control also more clarity of rules

### General

- some thought to be given to sub-regional/local realities. However, need strong national limits to discretion
- beware introducing yet further complexity 'Consultants Charter' syndrome. Need for clear, unequivocal advice and procedures
- farmers and genuine agricultural uses generally not a problem. Other countryside uses are more problematic and difficult to control

### Extensive Farming

- GPDO needs to clarify position on pig arcs, etc to avoid confusion/debate
- pig arks, poultry arks, etc need to be considered first as whether they are even development. Then PD

### Prior Approvals

- clarity for all needed on prior approvals, even if this means some relaxation. Preferably find a way of getting rid of them

### Agriculture Holding Size

- possible raise 5ha to 10 ha, or whatever, depending upon more research. Possible – take <5 ha out of PDV into rural planning
- problems for intensive units <5ha sites – if horticulture remove 5ha difference
- keep control in place. Threshold of <5ha is about right as the size for which new building may be reasonably required
- holdings threshold change will be very difficult to quantify
- need to keep threshold (whether 5ha or not) due to problem with 'hobby farmers'

# Appendix 3d

## Waste Management Sounding Board Meeting

**Winchester Guild Hall  
15th November 2007**

### Attendees

- Anne Wood – Communities and Local Government
- Danny Trussler – Communities and Local Government
- Joanne Smith – Welsh Assembly Government
- Stephen Freeland – Environmental Services Association
- Peter White – Dorset Planning Officers Society
- Chris Daly – Cornwall Planning Officers Society
- Andy Turner – Adams Hendry Consulting
- Gareth Bennet – Adams Hendry Consulting
- Chris Saville – Environment Agency
- David Glasson – NFU
- Aarun Naik – NFU
- Alice Cohen – DEFRA
- Barry Davies – British Institute of Agricultural Consultants
- Phil Holworth – OCS Group
- Fenella Collins – Country Land & Business Association
- Amy Bleszynska – Terence O'Rourke
- Robert Asquith – Waste Recycling Group
- Stuart Markham – Waste Recycling Group
- Gillian Pawson – GP Planning Ltd
- Hazel Edwards – GP Planning Ltd
- Kevin Hoare – Hoare Construction Ltd
- Steve Cole – Raymond Brown Construction Ltd
- Lauren Finch – Raymond Brown Construction Ltd
- Owen Dimond – Veolia Environmental Services
- Ian John – Viridor Waste (Somerset) Ltd
- June Hoar – Sherfield English Environmental Protection Society

### Flipchart Feedback

#### Initial Comments

- bring banks – planning status?
- use of industrial site for industrial type waste uses. Do B Class PD rights apply?
- creation of landscape bunds for leisure uses?
- use of Statutory Undertakers Right by waste companies?
- importation of soils to farm holdings. Waste or something else?
- WWTW PD right for structures but not buildings eg MCC kiosk

### Waste as a Construction Material

- when is a waste a waste?

### 28 Day Rule

- 28 days operation in a year – total
- for machinery such as concrete crushers
- opportunity for on site processing is increasing
- room for improvement in terms of regulation
- could this become a PD subject to limitations?

### Agricultural Waste

- management of waste on farms
- collection/disposal/recovery issues
- scope to address small scale activities with PD
- WTS for agricultural waste in countryside
- waste types of concern:
  - plastic
  - chemicals (haz waste is already covered)
  - packaging – recyclable
  - non-packaging plastic eg twine
  - un-economical to clean and recycle
- Difficulties in expanding existing collection rounds?
  - industrial and household LATs targets
  - expensive to have separate collections

### Draft GPDO

- 250m buffer zone regarding sensitive receptors?
- there is already a 400m zone for silos, etc
- is GPDO too objectional for agricultural waste?
- could bulking up facilities deal with the limited seasonality of agricultural waste? These could be regulated with something similar to the 28 Day Rule
- farmers would bring their waste to a selected farm over a period of a few days.
- could this be PD? Threshold?
- currently PD is for own waste

### Agricultural Improvement

- importation of good quality soils to improve land
- or avoidance of Landfill Tax
- EPA will address the loop holes
- Hampshire require DEFRA type certificates as part of planning application
- already an issue with GPDO as it doesn't allow for improvement for crop growing
- interface between PDR & EPR
- could PD cover the importation of topsoil for soil improvement? Is this covered by
- exemptions?
- current GPDO needs to be tightened up as District Councils lack expertise
- should county deal with all the waste applications?

## Implementation

- any issues in sensitive areas:

### No

- these areas create waste too
- SSSI's are already protected, license from EN needed to develop in these areas

### Yes

- green belts are there to protect open space
- will PD rights apply to existing facilities or only new ones?
- PD – one size fits all or tailored to size

## Prior Approval

- is this a useful tool?

### Yes

- needs to be written tightly so that LPA can easily request a planning application if
- they feel one is needed
- planners can feel that too much work is needed in deciding on whether to request
- P/A
- two tier system where those deciding on it aren't those receiving it

## Suggested Changes/Opportunities

### Recycling & Composting

- acoustic barriers and bunds shall require pp
- permitted development for small scale beneficial to neighbours for development on a site:
  - re-organisation
  - acoustic bund
  - filter units
  - enclosure
- same PDR as B2 Industrial Land use. Local Authorities to recognise PDR suitable for waste management development – just as other B2 land uses
- re-organisation of site layout, storage containers, concrete hard standings
  - all minor developments to existing sites whose impacts do not extend beyond the boundary
- minor changes to operational layout and to fixed plant and equipment could be pd. If pd rights are removed under a condition and have discretion to deal with by letter
- small extensions to existing buildings, security cameras
- focus on minor changes to plant for external uses:
  - offices/weighbridges/cabins criteria required
  - acoustic barriers and bunds should be excluded
- large number of minor issues – any small scale operations?

- operator – minor amendments – any variation in change of permission – need to go back to planners
- 10/15 per cent category of minor modifications to minor permissions
- need to cover wider aspects first – missing documentation in existing planning framework
- impact based approach – not asking for relaxing of conditions – change what happens within re-line
- variation between authority to authority – inconsistent
- go back and look at EA guidance – restrictions/thresholds
- use of planning conditions to allow flexibility
- planning usually comes before PPC application – conflict between planning and EA regulations. Need to be brought together. Tail of 2 separate processes – end up with different schemes.
- impact can be just as large with small sites as with larger sites
- two areas – plant structures, buildings & landfill and suggested approach
- in-vessel – covered or semi-covered
- in-vessel composting to AD – no scope for alterations in plant
- WML could control this?
- mini waste use class order?
  - not just external appearance
  - odour
  - operational method
- operational layout changes
  - environmental impacts
  - need to make sure stockpile heights right change throughputs
- environmentally beneficial development
- portacabin and mobile home – mobile home is use of land but portacabin isn't

### Temporary Buildings

- problems of time and cost associated with minor changes
- four categories – structures, plant, buildings, layout. Thresholds within which PD should work. Caveats including if EIA does not apply
- square meterage dependent on number of employees etc on a single storey
- principle already established on sites with planning permission
- temporary netting and fencing movement
- temporary buildings – 28 day rule, needs clarification, defines what square meterage is needed, single storey building, BREEM, sustainability
- construction waste management plan? Strongly endorse. Hardstanding up to 25 per cent, structures – 5m limit, Plant 15m limit

### Selling Compost

- farmers should be allowed to sell from farm gate and ancillary hardstandings
- limitations/conditions of hours of work, traffic movements, lorry movements, distance from dwellings/settlements, lighting – strict controls especially is settlement is remote site

## PDR

- use PDR to help people/public view straight forward waste management activities as 'industrial' activities
- grant PDR for activities but put capacity/size/footprint limits
- have connection between PDR and control of activity under pollution control permit ie can be PDR where potential impact will be controlled elsewhere?
- PDR should encourage good developments where there is little or no impact

## Waste Recovery Process

- outdoor maturation and odour. Neighbours may be impacted
- percentage increase over and above existing. Things required by PPC with prior notification
- biofilter and that type of plant water scrubbers have to pay but beneficial £500 will need to look at impacts
- underground baling for EFW sites
- construction of EFW – minor design changes with no significant impact to appearance of structure
- concrete pads, hard surfaces, drainage improvements, sheds (for equipment)
- on farm EFW generation – small incinerator – biomass boilers – on farms. WML regulations exempt (virgin wood might not be waste)
- lighting – need to consider impact on surrounding use. No lighting – locations, importation boundary and middle
- weighbridges – queuing may be an issue
- security cameras – height restriction 7m
- limited sorting of waste on sites eg landscape contractor with green waste and other wastes. Ancillary sorting and storage with other businesses. Prevents flytipping. 25m of waste sorting or storage at any one time
- stack height extensions for EFW plants (one for prior notification) 25 per cent below 15m and 10 per cent above 15m
- biofilters should be PD along with minor changes to layout
- outside maturation should NOT be pd. Biofilters – pd but controlled by height. Mobile lighting and minor layout changes should be pd subject to limits
- concrete pads, hard surfaces, drainage improvements, sheds (for equipment)
- mobile lighting could be dealt with by condition with discretion to deal with in writing between LA and Operator
- need for definition of industrial processes are always B2. If so take advantage of B2 pd rights. Outdoor maturation unlikely to be suitable

## MRFs

- if activities are acceptable in one area – requires conditions. DR should only apply to waste.
- skip storage – noise from stacking and dragging – no material effect on appearance – what is empty?

- small extensions to WTS 10 per cent-25 per cent? Changes between waste types
- include with recycling operations as a B2 use. WTS should be considered akin to B8 uses. Different issues for waste types – household/skip have different impacts. Minor infrastructure should be covered by pd
- should have pd for weighbridge, wheelwash and minor changes to operational layout
- should be considered in the recycling section. WTS – pd for pads, surfacing up to 3m high, skip storage outside if more than 3m high and pd portacabins

### Landfill

- could do deal with minor matters under a prior notification procedures ie for weighbridges, haul roads
- pd will allow less professional operators to cut corners
- add prior notification process to pd so less need for LPA to take away hard won pd rights
- gas flares probably not stable. LTP/weighbridges, etc should be covered by pd or by prior notification procedures
- gas flares – not pd. Boreholes should be pd, also ESA proposals should be reconsidered. Portacabins – pd subject to limits
- pipelines, cables, internal haul roads, leachate treatment, gas flares, restoration/topsoil storage, litter fencing, gas/groundwater monitoring equipment
- screen banking, boundary and netting
- the control needs to come via having responsive operators and a permitting system
- impact issues are the main point. There will never be a fully comprehensive list of what pd applies to
- essential information – should include temporary buildings and distance between highway and wheel wash
- temporary buildings – ability to move around within site within pp
- gas flares – light pollution, impact too great, significant impact on ecology and environment, ancillary infrastructure – greater flexibility, scale limitation on single storey, define levels – should be covered by conditions, flexibility built into planning permission
- gas, odour and groundwater monitoring for both on and off site – pd
- PD for some types of landfill eg 1 inch across a hectare for management eg Cow & Gate land spreading. Need to be clear it is land recovery and not disposal – any benefit or ecological improvement
- visibility needs to take into account post restoration scheme if not screened
- leachate treatment things could be PD. Need to make sure it is not completely unregulated
- gas turbine generators produce quite a lot of noise and need attention – should require planning permission.
- replacement of plant – it is better and more efficient – shouldn't need PA – could fall into prior notification
- flares need prior notification.

- wheel wash too close to existing site would potentially be an issue because of flooding
- mini EIA screening form for waste pd kick in
- powerlines & pipelines – including beyond the site. Common agreement could be pd for all underground and habitat
- litter fencing – pd – common agreement
- pre-treatment kit (under other topics) – regulated by throughput or area? WML regs look for exemptions
- storage of topsoil and restoration materials, height limits to keep soils okay and visualisation – can check

### Difference Between Operators

- restricting development – too restrictive
- new site rather than existing sites
- take EIA approach in terms of determining whether a site is capable of having pd rights
- clarity on users
- could there be a minimal size threshold?

### Waste Recovery Process

- structure – 5m in height – biofilter
- roof over – could be pd
- improve efficiency – up to 25 per cent increase for example

### Maturation

- EA Guidelines – 250m distance from residents
- changes – would possibly cause size in pack

### Mobile Lighting

- inward fencing
- non-intrusive
- glow/glare
- blue lights – less glare
- disturbance to wildlife, location of light affect to wildlife & residents, strength of light
- scope for removal of pd rights in sensitive areas

### Operation Layout

- roads/hardstanding – differentiate between
- small additional buildings – 20 per cent
- definition of volume – difficult to calculate
- small ancillary buildings

### Agricultural Sector

- infrastructure in place for small scale sites
- waste collection/delivery hubs
- temporary sites
- unite streams coming from farms
- conflict between agricultural and other users

### Sites

- bottle banks
- storage of plastic on farms – needs planning permission
- inert v's non-inert sites. Have different impacts
- waste is a contentious issue – needs planning permission to regulate and control the system
- flexibility within existing sites

### Period Review

- ROMP- Re-assess sites against current standards
- main issue – moving plant/machinery/portacabins around site. Use planning condition to remove pd rights in first instance
- landfill monitoring – boreholes in SSSI – no need for planning permission

### Enforcement/Monitoring

- difference between operators who can afford application fees
- difference between a lot of time and energy in chasing smaller operators
- difference between affected relationships with smaller operations
- difference between large and small operations
- need greater feedback from offices and greater certainty on what is and is not pd

### Waste Transfer Stations

- for agricultural waste to be allowed under PDRs – criteria of size for when largest may require planning permission
- modification/addition of plant/kit within a building
- small scale waste transfer stations on farms dealing with seasonal agricultural waste arisings need not be subject to full planning permission. PD would be a way to facilitate this

### General

- 25 per cent increase on concrete pad and 5m max push on walls and bunds (Environ constrains already in planning)
- biofilters should be considered as plant/structures therefore acceptable within thresholds for these (eg 5m for structure/15m for plant)
- acoustic barriers & bunds shouldn't be pd. Portacabins is a major issue that needs pd with limits on height, floor area, location. Fixed/mobile plant – should have pd similar to mineral industry
- structures up to 5m are too high and plant up to 15m is too high
- movement within a site might affect surface runoff movement, create dust. Boggy land affects road for vehicles. Leachate containment and monitoring.
- waste stored/sorted ancillary to collection – could a small quantity be covered?
- small scale monitoring for gas, water and dust should be pd – environmental benefit
- beneficial effects of eg biofilter – requirement for planning permission – cost.

- need to consider if any changes in use eg in vessel/composting, layout etc. Change the environmental impact of the size. Is consideration of site specific circumstances required? If so, is PDR really appropriate?
- sale of material produced on site – not permission to build structure associated with it

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