

Built Environment Forum Scotland (BEFS) is an umbrella body for organisations working in the built environment in Scotland. Drawing on extensive expertise in a membership-led forum, BEFS informs, debates and advocates on the strategic issues, opportunities and challenges facing Scotland's historic and existing built environment. BEFS is a supporting member of the [Climate Heritage Network](#).

Other relevant consultation responses from BEFS can be seen below, as many issues overlap and demand associative consideration:

REVIEW OF PERMITTED DEVELOPMENT RIGHTS PHASE 2 (03/08/2022)

BEFS is supportive of plans and proposals intending to facilitate the move to net zero, recognising the role that PDR for electric vehicle charging infrastructure and change of use has to play. However, any changes should be just and equitable, ensuring quality place-making and – within the existing exemptions – changes must, where appropriate, align with and refer to the Historic Environment Policy for Scotland (HEPS). This could mean for some cases assessing impact on a sensitive designation would best be undertaken through a planning application rather than through prior notification/approval.

PERMITTED DEVELOPMENT RIGHTS (PDR) IN SCOTLAND – CONSULTATION ON PHASE 1 PROPOSALS (12/11/2020)

BEFS responded to the Scottish Government's consultation on draft proposals for changes to Permitted Development Rights for the four development types selected for Phase 1 of their programme.

BEFS Response:

BEFS will be responding only to relevant questions of the consultation, as below.

BEFS welcomes the intentions of the proposed changes, towards easing of pressure on planning teams to deliver ambitious net zero targets, and to enable easier implementation of climate beneficial solutions within planning. The role that our existing building stock has to play, through continued use and a maintenance and fabric first approach, in achieving net zero, cannot be understated. Sensitive and appropriate climate adaptations are part of this. We would reiterate the view given in previous responses to Phase 1 and Phase 2 of the review: that changes to PDR exemptions should be just and equitable, ensuring quality place-making and must align with and refer to the Historic Environment Policy for Scotland (HEPS) and the National Planning Framework 4 (NPF4) when impact on designated buildings or areas is identified. We would further add caution that unintended consequences of some of the proposed exemptions should be considered.

BEFS supports the National Trust for Scotland's comments that: *'...the proposals must adequately strike a balance. Conservation Areas are described under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as "areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance" and we must ensure the proposals do not undermine the purpose of conservation areas.*

Conservation Areas act, in part, as an alternative to listed building status should not be viewed as lesser as this will weaken their ability to achieve their objectives. Conservation Areas are intended to preserve the character of an area which includes the spaces between buildings and quality of the landscape. What makes them special is the arrangement of the buildings and spaces together and this must be borne in mind when deciding if extending PDR is appropriate.'

As a general point, BEFS would note that the consultations for Phase 1 and 2 of the review of Permitted Development Rights many of the questions referenced prior notification/prior approval. Within the current

consultation on Phase 3 this approach appears to have been altered. Members raised the question of why this might be and if this could be explained.

BEFS previous experience and work with Tenements also leads us to note that the issue of communal property is not addressed. This includes, but is not limited to: heat pumps, solar panels and some of the turbine proposals. Giving PDR for erection of renewables on communal property should be addressed in full, with relevant legislation taken into account.

In compiling this response, BEFS has sought views from the Conservation Officers Group (COG), a forum for those working with our built environment in a local authority with a remit for heritage/conservation, and BEFS Members, through the Historic Environment Working Group (HEWG).

Finally, BEFS would like to note that there is much to support in the document, however as the responses inevitably require a nuanced response, it has been felt necessary to adopt a 'No, but...' approach, with a view to being able to support more than the spirit of the proposed amendments in future.

1. Do you agree with the proposed permitted development rights for solar panels attached to domestic properties in conservation areas?

No

BEFS broadly supports the principle however as it stands can't fully support the proposals. In specifying the elevation – in this case rear or side, providing they are not visible from the road – is inflexible and has the potential to impact negatively on the special character of a conservation area. For example, other (or all elevations) may be prominent or visible from public access areas and make a positive contribution to the area's special character. From within the Conservation Officers Group, BEFS received views that expressed the following:

'To create a blanket approach that the rear of roofs in conservation areas are of limited importance undermines the guidance in PAN71.'

Amending the wording to reflect that PDR for solar panels is permitted on elevations that do not contribute to the character of the conservation area, or are not - for example - visible from parks, walkways or other civic spaces.

BEFS also considers that further clarity is required regarding the proposed changes, requiring that solar panels are to be removed once they are no longer functional. Some caution must be taken here as poor or inappropriate repairs, with the wrong materials could further impact negatively on a historic building and a conservation area's special character.

Should these points be taken into consideration we look forward to supporting the proposals in future.

2. Do you agree with the proposed permitted development rights for the installation of solar panels on outbuildings ancillary to, and within the curtilage of, a dwellinghouse?

Don't know

It is unclear if this also applies to conservation areas (and other designations), and if so this would likely have the same potential impact as outlined above.

3. Do you agree with the proposed amendments to permitted development rights for air source heat pumps?**No**

As it stands BEFS could not support the proposed amendments and would reiterate the point made in response Q 1 in that a blanket approach as to which elevations may be of significance within any conservation area, may have unintended consequences. Should these points be taken into consideration we look forward to supporting the proposals in future.

Page | 3

5. Do you agree with the proposed amendments to permitted development rights for free-standing domestic wind turbines?**No**

BEFS supports the NTS view that *'Given the significant impact of turbines on visual amenity and noise, this reduction is excessive. The reduction may also mean that those in urban areas with large gardens and those in semi-urban areas are much more likely to be able to install turbines. The individual and cumulative impact of this proposal is potentially significant and the Trust encourages a more full impact assessment to be undertaken before any change is made.'*

6. Do you agree with the current list of designated areas where the permitted development rights do not apply, noting that the list does not currently include national parks or National Scenic Areas?**Don't know**

The current list outlines that *'The turbine cannot be located within a conservation area, the curtilage of a listed building, a World Heritage Site, a Site of Special Scientific Interest or a site of archaeological interest.'* This is welcome and BEFS notes that there will still be cases where assessing impact on a sensitive designation would best be undertaken through a planning application. To fully enable this the list of areas where permitted development does not apply could usefully be extended (as noted above, the list does not currently include national parks or national Scenic Areas) to recognise the potential impact of turbines on designed landscapes, scheduled monuments and their setting, and battlefields.

7. Do you agree with the proposed new permitted development rights for wall or roof-mounted wind turbines attached to a dwellinghouse?**No**

Whilst broadly supportive, BEFS would reiterate comments above.

10. Do you agree with the proposed amendments to class 6J permitted development rights for solar panels attached to non-domestic buildings?**No**

BEFS would reiterate the point made in response Q 1, that whilst broadly supportive of the principle, that a blanket approach as to which elevations may be of significance within any conservation area, may have unintended consequences. For example, other (or all) elevations may be prominent or visible from public access areas and make a positive contribution to the area’s special character.

12. Do you agree with the proposed new permitted development rights for solar panels within the curtilage of non-domestic buildings?

Yes

However, BEFS considers that within the curtilage of non-domestic buildings the potential issues outlined previously - of specifying which elevations are of significance within a conservation area – remain, and may have unintended consequences. For example, other elevations may be prominent or visible from public access areas and make a positive contribution to the area’s special character.

BEFS supports the NTS view that: *‘The first bullet point should be expanded to conservation areas, the curtilage of a listed building, a World Heritage Site, a Site of Special Scientific Interest or a site of archaeological interest, gardens and designed landscapes, National Scenic Areas, National Parks, Battlefields, and National nature Reserves.’* and would further suggest the inclusion of scheduled monuments to consider impacts on the designation and setting.

15. Do you agree with the proposed permitted development right for air source heat pumps on non-domestic buildings?

Yes

However, BEFS reiterates comments above around unintended consequences of specifying elevations, and would further note that the proposal for there to be no restrictions on size could open up the potential for negative impact on designated assets and areas.

17. Do you agree with the proposed permitted development rights for replacement windows of domestic buildings located in conservation areas?

No

BEFS would note that thermal performance of UPVC and new windows should not be assumed to be superior to that of well-maintained timber widows with secondary glazing when considering the whole life cost, as this report examines

https://researchportal.hw.ac.uk/files/4378394/Final_report_SLP_WLC_and_LCA.pdf.

From within the Conservation Officers Group (COG), BEFS received views that expressed the following:

‘The PDR proposals in terms of replacement windows directly contradict the recently adopted NPF4 which recognises “conserving and recycling assets” as an overarching spatial principle, and Policy 2 which aims to ensure that emissions from development are minimised as much as possible. Repair and draught-proofing should always be recommend as first steps which, although will not affect the EPC rating of a property, will improve the thermal efficiency of existing windows without the cost and embodied energy concerns of

replacement. Therefore in order for the Scottish Government to continue to provide best practice guidance and not contradict NPF4, PDR for windows should not be changed.

Reference should be made to Managing Change by HES: [managing-change-new-windows \(6\).pdf](#) ‘

Further, BEFS would note the view of the AHSS that ‘There is a failure to consider the embedded or embodied carbon of the existing windows and to examine that in the proposed new windows. Controls should be maintained in conservation areas so that owners can be encouraged to restore, for example, timber sash and case windows where these have been replaced by non-sash and case windows in materials other than timber’.

18. Do you have any comments on the conditions that we propose the permitted development rights for replacement windows would be subject to?

Yes

BEFS tentatively supports the spirit of proposals for PDR for replacement windows but feels that the language of the amendment allows for missed opportunities around improvements or better decision making for the historic environment. For example, when replacing a UPVC window in a conservation area there will be cases where assessing impact is best be undertaken through a planning application and where possible a presumption in favour of returning to timber or other appropriate traditional materials befitting the designation. We would also consider it a missed opportunity in that there is no mention of the type of material for replacement windows within the specifications.

Members of Conservation Officers Group (COG) have also expressed concerns that ‘The details of windows in conservation areas cannot be controlled with this approach – whilst the document states that this would be a nuanced approach rather than a blanket approach, in reality what is proposed is still a blanket approach, just one with some basic conditions included. Additionally, there would likely be a subjective interpretation by each building owner of what ‘matching the existing’ meant. Therefore PDR for replacement windows should not be extended to conservation areas as this proposal is likely to lead to a significant decline in the character and appearance of conservation areas, which would contradict the efforts of NPF4 Policy 7 (d).’

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

Yes

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

Yes

BEFS broadly supports the proposals but would welcome clarity on the expected number of new substations, and would agree with the NTS that to fully understand the impact on designated sites and assets ‘...further

analysis of this must be done before changing PDR in this area, as it may unwittingly be paving the way for a large rise in the number of sizable substations.'

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

Yes

However as with BEFS comments on the proposals around windows, with replacement comes opportunity for improvements to existing lines, and so wording to encourage this, where possible, would be welcome.

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

Yes

However within PDR for site investigation BEFS would refer to existing protections for designated areas notes that for these areas there will be cases where assessing impact on a sensitive designation would best be undertaken through a planning application.

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

No

BEFS broadly supports the principle however does not believe the PDR should apply in designated areas. Existing exemptions re listed buildings and conservation areas must remain – as above, BEFS would refer to existing protections for designated areas notes that for these areas there will be cases where assessing impact on a sensitive designation would best be undertaken through a planning application.

29. Do you agree with the proposed amendments to permitted development rights for reverse vending machines?

No

BEFS considers the principle to be acceptable however, clarity on whether the existing exemptions still apply would be welcome, for example, paragraph 6.1.4 (current PDR in special areas) should be repeated within the proposals section (after 6.1.10).

Additional clarity would be welcome on two points:

- How was the proposed size arrived at? BEFS would questions whether the scale would also be appropriate for rural locations and subsequent implications for surrounding area and landscape. BEFS would welcome further assessment here.

- Should the proposal go ahead, then this should be stipulated to only be for the purposes for recycling.

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

Further to the points made above around existing designations and PDR, BEFS would note the importance of ensuring that the proposals are equitable and nuanced and that a blanket approach can raise further unintended consequences. BEFS finds merit in the views expressed by a Member below:

'While recognising the positive aspects of using traditional materials and skills in replacing windows, the cost differential when compared to PVCu is significant and private landlords, who do not benefit from a resulting reduced energy-for-heat demand, will transfer improvement costs to tenants. Without financial mitigation to some property owners, affordable housing providers in particular, continued requirement to apply for planning permission and the use of more expensive materials will unfairly impact on already vulnerable groups.'

BEFS responses to a number of Consultations in relation to the Built Environment can be found at:

<https://www.befs.org.uk/resources/consultations/>

RESPONDENT INFORMATION

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The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference: **Publish response with name**

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise? **YES**

I confirm that I have read the privacy policy and consent to the data I provide being used as set out in the policy. **I CONSENT**