

Planning Committee

31 March 2023

Agenda item number 15

Department of Levelling Up, Houses and Communities- Permitted development rights-consultation

Report by Head of Planning

Summary

The Department of Levelling Up, Housing and Communities (DLUHC) is consulting on proposed changes to permitted development rights to support recreational camping, renewable energy and film-making.

The report summarises the proposed changes and includes proposed responses to the questions asked in the consultation.

Recommendation

Members endorse the consultation response.

1. Introduction

- 1.1. On 28 February 2023 the Department for Levelling Up, Housing and Communities (DLUHC) published a [consultation document \(www.gov.uk\)](http://www.gov.uk) on proposed changes to some Permitted Development Rights (PD Rights). Permitted Development Rights cover development that can be done without needing to apply for planning permission.
- 1.2. The deadline for comments is 25 April 2023.

2. Proposals

- 2.1. This consultation contains proposed changes to the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. The proposed changes are set out below.

Temporary recreational campsites

- 2.2. A new permitted development right to support temporary recreational campsites. This would allow:
 - Temporary use of land for camping;

- For up to 30 tents and related moveable structures;
 - Not for caravans, motorhomes and campervans; and
 - For 60 days per year.
- 2.3. The new permitted development right would require the on-site provision of temporary facilities for showers, toilets and waste storage and collection. The developer would also be required to notify the Local Planning Authority (LPA) of their intention to operate a camp site and to provide them with a site plan showing the location and details of the shower, toilet and waste disposal facilities, and details of the dates on which the site will be used for the placing of tents.
- 2.4. The new right would not apply to land within the curtilage of a listed building, sites of special scientific interest, scheduled monuments, safety hazard areas or military explosives storage area.
- 2.5. Where the site is in Flood Risk Zone 2 or 3 the permitted development right would not apply and the developer would need to apply for prior approval. Prior approval is a process whereby a developer has to seek approval from the LPA that specified elements of the development are acceptable before work can proceed. If the LPA is not satisfied it can refuse to issue prior approval and require a planning application.

Solar

- 2.6. This proposes changes to the existing permitted development rights for solar equipment and a new permitted development right for solar canopies. The details are as below.
- 2.7. For solar on domestic buildings, the proposals retain the existing limitation that solar can be installed on pitched domestic rooftops or walls where it does not protrude more than 0.2 metres beyond the plane of the wall or the roof slope. Currently a solar installation cannot be taller than the highest part of the roof (excluding any chimney), but this would be changed to allow solar to be installed on a flat roof subject to it being no higher than 0.6 metres above the highest part of the roof (excluding any chimney).
- 2.8. For solar on non-domestic buildings, currently in protected areas such as the Broads and Conservation Areas solar equipment which generates electricity up to 1MW cannot be installed on a roof slope which fronts a highway. Where the electricity generated is up to 50kW the solar equipment cannot be installed on a wall which fronts a highway. It is proposed to remove these limitations.
- 2.9. For stand-alone domestic solar, currently there are no permitted development rights in Conservation Areas for the apparatus to be installed closer to the highway than a dwellinghouse or block of flat – i.e. in front of the property. It is proposed to remove this limitation to give more flexibility on location.
- 2.10. For stand-alone non-domestic solar, currently in protected areas such as the Broads and Conservation Areas the apparatus cannot be installed so that it is closer to the

highway than the building. It is proposed to remove this limitation to give more flexibility on location.

- 2.11. A new permitted development right would be created for solar canopies. This would allow apparatus of up to 4 metres in height in ground-level off-street car parks in non-domestic settings. It would not be permitted within 10 metres of a dwellinghouse or the curtilage of a listed building or on a site designated as a scheduled monument. In the Broads and other protected areas such as Conservation Areas it would require prior approval.

Development by local authorities

- 2.12. Local Authorities have permitted development rights to carry out a wide range of works. It is proposed to amend this so that the rights could be exercised by other bodies undertaking the work on behalf of the local authority.

Temporary use of buildings or land for film-making purposes.

- 2.13. A permitted development right was introduced in 2015 allowing the temporary use of buildings or land for film-making purposes and the provision of temporary structures relating to that use. The proposed changes are:

- Maximum period – increased from 9 months to 12 months in any 27 month period;
- Maximum land area – increased from 1.5 hectares to 3 hectares
- Maximum height of any temporary structure, works, plant or machinery – from 15m to 20 m with a 5 metre height limit to any part of the structure, works, plant or machinery that would be within 10 metres of the curtilage of the land.

3. Proposed response

- 3.1 The impact for the protected landscape of the Broads of the proposed changes has been considered and there has been consultation with colleagues in the National Parks. The issues are not the same, or of equal concern, for all the protected landscapes, so this assessment applies to the Broads area. A summary of the proposed response is set out below and the full questions and response attached in Appendix 1.

Temporary recreational campsites

- 3.2 It is considered that this new permitted development right to support temporary recreational campsites should not apply in the Broads. This is partly due to the issue of nutrient neutrality, which has not yet been resolved locally and prevents planning permission being granted for any new campsites. It would be irrational to allow development for which planning permission cannot currently be granted to be instead undertaken under permitted development rights with no control whatsoever over impacts. Furthermore, campsites can have significant and adverse impacts on landscape, local amenity and wildlife interests.

Solar

- 3.3 The Broads Authority is in principle in support of increased use of renewable, including solar, but this must be balanced against the protection of the landscape, heritage and the built environment. The installation of apparatus on roof slopes and walls facing the public highway, or between a dwelling and the public highway, as set out in paragraphs 2.6 – 2.8 above, in the Broads and Conservation Area, has the potential to have a significant and adverse impact on the qualities for which the Broads was designated.
- 3.4 The proposal to extend the rights for solar on flat roofs (see 2.4 above) similarly cannot be supported due to the potential to impact on roofscapes, which can be an important part of the built fabric of an area
- 3.4 It is considered that the current exclusions to permitted development rights should be retained. It should be noted that the need to submit a planning application does not stop permission being granted where appropriate, but it allows negotiation to take place to ensure an acceptable solution and means it is a more democratic process.
- 3.5 The proposed prior approval process for solar canopies (paragraph 2.9 above) is acceptable.

Development by local authorities

- 3.6 The amendment to allow third parties to undertake development on behalf of local authorities under the latter's permitted development rights is supported, as it would increase flexibility around undertaking works.

Temporary use of buildings or land for film-making purposes

- 3.7 Changes to the existing permitted development right allowing for the temporary use of buildings or land for film-making purposes.
- 3.1. This is not an issue which has arisen in the Broads Authority area, although the allowances in the existing permitted development rights already appear generous. No comment will be made.

4. Conclusion and recommendation

- 4.1. The Government propose changes to existing permitted development rights.
- 4.2. These have been outlined and a brief commentary made. It is recommended that the responses outlined at Appendix 1 are submitted as the response of the Broads Authority.

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Appendix 1 – Permitted development rights: supporting temporary recreational campsites, renewable energy and film-making consultation: Responses of the Broads Authority

Appendix 1 - Permitted development rights: supporting temporary recreational campsites, renewable energy and film-making consultation: Responses of the Broads Authority

Q1. Do you agree that a new permitted development right should be introduced that will allow the temporary use of land for recreational campsites and associated facilities?

No.

This is due to the issue of nutrient neutrality, which has not yet been resolved locally and prevents planning permission being granted for any new campsites. It would be irrational to allow development for which planning permission cannot currently be granted to be instead undertaken under permitted development rights with no control whatsoever over impacts. An assessment under the Habitats Regulations would be a requirement, even if such a site were allowed under permitted development rights.

Furthermore, campsites can have significant and adverse impacts on landscape, local amenity and wildlife interests. Areas of the Broads are identified as having good Dark Skies, which are protected under planning policy.

Q2. Do you agree that the permitted development right should only apply to the placing of tents?

The Broads Authority does not support the principle of the proposed new right.

Q3. Do you agree that the permitted development right should allow up to a maximum of 30 tents to be erected on the land?

The Broads Authority does not support the principle of the proposed new right.

Q4. Do you agree that the permitted development right should be limited to up to 60 days per calendar year?

The Broads Authority does not support the principle of the proposed new right.

Q5. Do you agree that the permitted development right should require the provision of temporary on-site facilities to provide waste disposal, showers and toilets?

The Broads Authority does not support the principle of the proposed new right.

Q6. Do you agree that the permitted development right should not apply on land which is in or forms part of sites of special scientific interest, Scheduled Monuments, safety hazard areas, military explosives storage areas and land within the curtilage of a listed building?

The Broads Authority does not support the principle of the proposed new right.

Q7. Are there any other planning matters that should be considered?

The Broads Authority does not support the principle of the proposed new right.

Q8. Do you agree that the permitted development right should require annual prior notification to the local authority of the matters set out above?

The Broads Authority does not support the principle of the proposed new right.

Q9. Do you think that, in areas of flood risk, the right should allow for prior approval with regard to flooding on the site?

The Broads Authority does not support the principle of the proposed new right.

It is noted that campsites are listed as more vulnerable uses in appendix 3 of the NPPF and are not an appropriate land use in flood risk zones 2 and 3.

Q10. Do you think that any of the proposed changes in relation to a new permitted development right for temporary recreational campsites could impact on: a) businesses b) local planning authorities c) communities?

The proposed new permitted development right could have an impact on all of the interests listed.

In terms of businesses, there is not a level playing field between sites operating with planning permission and in accordance with other regulations (including appropriate access, drainage, habitat protection etc) and pop-up sites with no requirement to address any of these matters. In the Broads, a pop-up site could be established on non-designated land which is nonetheless of significant conservation interest and the LPA would have no control over it.

In terms of LPAs, the requirement for notification is acknowledged, but the LPA may need to monitor the site to ensure compliance so there are resource implications.

For communities, the impact of development on amenity is a key consideration when determining planning applications, but there is no opportunity to consider this where development is permitted development. The occupation and use of 30 tents would have a significant impact in a rural areas.

Q11. Do you think that proposed changes in relation to a new permitted development right for temporary recreational campsites could give rise to any impacts on people who share a protected characteristic? (Age; Disability; Gender Reassignment; Pregnancy and Maternity; Race; Religion or Belief; Sex; and Sexual Orientation).

The Broads Authority does not support the principle of the proposed new right.

Q12. Should the permitted development right for solar on domestic rooftops be amended so that they can be installed on flat roofs where the highest part of the equipment would be no higher than 0.6 metres above the highest part of the roof (excluding any chimney)?

No. In many instances, the roofline of flat-roofed domestic buildings is an integral part of the building design and the addition of PV panels and their supporting structures would be detrimental to the appearance of these buildings and the wider area, with a change to the roofline and addition of visual clutter at high level. The Broads Authority would suggest that the permitted development right is retained as existing regarding the installation of PV panels

on domestic flat roofs. This is because the requirement for planning permission does not preclude the granting of that permission in instances where they could be positioned in such a way that they would be acceptable (behind a parapet; set back so as not to be as obtrusive etc) but the planning application process allows a degree of negotiation and control by the LPA and input from the local community.

Q13. Are there any circumstances where it would not be appropriate to permit solar on flat roofs of domestic premises?

Yes - this is the case in many instances. However, Conservation Areas would be particularly sensitive to such change and it could be that the permitted development right is removed in Conservation Areas only.

Q14. Do you agree that solar on a wall which fronts a highway should be permitted in conservation areas?

No. There are very few instances where wall-mounted solar panels on a domestic dwelling would preserve or enhance the character or appearance of a Conservation Area, as the legislation requires and retro-fitted PV panels to a wall of a building should always be controlled. It is much more likely to be considered acceptable when designed as part of a new build and can be properly integrated into the design and considered through the planning process.

Q15. Do you have any views on the other existing limitations which apply to this permitted development right which could be amended to further support the deployment of solar on domestic rooftops?

No.

Q16. Do you agree that the existing limitation which prevents stand-alone solar being installed so that it is closer to the highway than the dwelling house in conservation areas, should be removed?

No. This is because the requirement for planning permission does not preclude the granting of permission for stand-alone solar panels closer to the highway than the dwelling house in a Conservation Area in instances where they could be positioned in such a way that they would preserve and enhance the character or appearance of the Conservation Area. The planning application process allows a degree of negotiation and control by the LPA and input from the local community.

Q17. Do you have any views on how the other existing limitations which apply to this permitted development right could be amended to further support the deployment of stand-alone domestic solar?

No.

Q18. Do you agree that the current threshold permitting the generation of up to 1MW of electricity on non-domestic buildings should be removed?

Yes, as long as the system of prior approval is still in place.

Q19. Is the current prior approval for solar equipment on non-domestic rooftops (where equipment is over 50kW but no more than 1MW) effective?

Yes. It gives LPA the opportunity to require an application for planning permission where the proposal does not meet the criteria.

Q20. Are there any circumstances where it would not be appropriate to allow for the installation of non-domestic rooftop solar where there is no limit on the capacity of electricity generated?

Yes. There are likely to be instances on article 2(3) land; on buildings which are prominently positioned or of some local significance; or where installations have not been well-designed and panels are arranged in a haphazard manner with little consideration for wider public amenity.

Q21. Do you agree that the existing limitations relating to the installation of solar on non-domestic buildings in article 2(3) land - which includes conservation areas, Areas of Outstanding Natural Beauty, the Broads, National Parks and World Heritage Sites – should be removed?

No. This is because the requirement for planning permission does not preclude the granting of permission for the installation of solar panels in these areas where appropriate. However, it ensures that LPAs and communities have some input. It also ensures that we 'build beautiful' in line with the government's objective.

Q22. Do you have any views on how the other existing limitations which apply to the permitted development right could be amended to further support the deployment of solar on non-domestic rooftops?

No.

Q23. Do you agree that the existing limitation which prevents stand-alone solar being installed so that it is closer to the highway than the building in article 2(3) land - which includes conservation areas, Areas of Outstanding Natural Beauty, the Broads, National Parks and World Heritage Sites – should be removed?

No. This is because the requirement for planning permission does not preclude the granting of permission for stand-alone solar panels closer to the highway than the building in article 2(3) land in instances where they could be positioned in such a way that they would not be harmful to the character or appearance of the area. The planning application process allows a degree of negotiation and control by the LPA and input from the local community.

Q24. Do you have any views on how the other existing limitations which apply to this permitted development right could be amended to further support the deployment of stand-alone non-domestic solar?

No.

Q25. Do you agree that permitted development rights should enable the installation of solar canopies in ground-level off-street car parks in non-domestic settings?

Agree, as long as the permitted development rights would not apply in article 2(3) land or in the curtilage of listed buildings or scheduled monuments. They would also provide shade from the sun as well as rain in a changing climate.

Q26. Do you agree that a permitted development right for solar canopies should not apply on land which is within 10 metres of the curtilage of a dwelling house?

Yes. These can be rather large and obtrusive structures and so planning permission should be required within 10 m of a curtilage of a dwelling house in order to protect residential amenity. In such locations an assessment needs to be made.

Q27. Do you agree that a permitted development right for solar canopies should not apply on land which is in or forms part of a site designated as a scheduled monument or which is within the curtilage of a listed building?

Yes. This complies with the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the NPPF relating to the contribution of setting to the significance of designated heritage assets. In such locations an assessment needs to be made.

Q28. Do you agree that the permitted development right would not apply to article 2(3) land - which includes conservation areas, Areas of Outstanding Natural Beauty, the Broads, National Parks and World Heritage Sites?

Yes agree – there may be instances where such canopies are acceptable, but this is best done through the normal planning application route.

Q29. Do you agree that solar canopies should be permitted up to 4 metres in height?

No. This appears excessively tall and will mean that they are very large structures . Is this so that lorries and vans can use them? A maximum height of 2.5m should be sufficient.

Q30. Do you think that the right should allow for prior approval with regard to design, siting, external appearance and impact of glare?

Agree as these are important amenity considerations.

Q31. Are there any other limitations that should apply to a permitted development right for solar canopies to limit potential impacts?

No.

Q32. Do you think that any of the proposed changes in relation to the permitted development rights for solar could impact on: a) businesses b) local planning authorities c) communities?

Yes to all of the above. Clearly there could be environmental and economic benefits in the installation of solar panels for all three of those groups but equally there could be harm to the

amenity of areas and the character and appearance of designated sites and land, which would be of detriment to all three groups.

The retention of existing permitted development rights allows these issues to be assessed by the local planning authority and allows them to consider whether the public benefits provided by the environmental gains will outweigh any harm. Clearer government guidance on this and / or policies to encourage solar, for example in the NPPF, should be considered, to ensure there is consistency in this assessment process and to ensure that cases can be judged on a case by case basis with a bias for solar.

Q33. Do you think that proposed changes in relation to the permitted development rights for solar could give rise to any impacts on people who share a protected characteristic? (Age; Disability; Gender Reassignment; Pregnancy and Maternity; Race; Religion or Belief; Sex; and Sexual Orientation).

No comment

Q34. Do you agree that the permitted development right allowing for development by local authorities should be amended so that the development permitted can also be undertaken by a body acting on behalf of the local authority?

Yes, this is a positive amendment.

Q35. Do you think that any of the proposed changes in relation to the permitted development right could impact on: a) businesses b) local planning authorities c) communities?

Yes, but it is considered that they are likely to be positive.

Q36. Do you think that proposed changes in relation to the permitted development right could give rise to any impacts on people who share a protected characteristic? (Age; Disability; Gender Reassignment; Pregnancy and Maternity; Race; Religion or Belief; Sex; and Sexual Orientation)?

No comment

Q37. Do you agree that the maximum period of time land or a building can be used for the purpose of commercial film making should be increased to 12 months in any 27 month period?

No comment

Q38. Do you agree that the maximum area of land or land on which the building is situated being used for the purposes of film making should be increased to 3 hectares?

No comment

Q39. Do you agree that the maximum height of any temporary structure, works, plant or machinery allowed for under the right should be increased to 20 metres?

No comment

Q40. Do you think that any of the proposed changes in relation to the permitted development right could impact on: a) businesses b) local planning authorities c) communities?

No comment

Q41. Do you think that proposed changes in relation to the permitted development right could give rise to any impacts on people who share a protected characteristic? (Age; Disability; Gender Reassignment; Pregnancy and Maternity; Race; Religion or Belief; Sex; and Sexual Orientation)?

No comment