

**REPORT TO:** DEVELOPMENT QUALITY COMMITTEE - 16 FEBRUARY 2009

**REPORT ON:** HOUSEHOLDER PERMITTED DEVELOPMENT RIGHTS

**REPORT BY:** DIRECTOR OF PLANNING & TRANSPORTATION

**REPORT NO:** 40-2009

## **1 PURPOSE OF REPORT**

- 1.1 The report seeks to confirm the views of the Council in response to the consultation paper "Householder Permitted Development Rights" issued by the Scottish Government on 3 December 2008 and to authorise the Director of Planning and Transportation to issue the response to the Scottish Government by 13 March 2009.

## **2 RECOMMENDATION**

- 2.1 It is recommended that the Committee:
- a endorses this report as the Council's formal response to the consultation paper; and
  - b authorises the Director of Planning and Transportation to issue the formal response to the Scottish Government by 13 March 2009.

## **3 FINANCIAL IMPLICATIONS**

- 3.1 As the proposals are at a draft stage it is not possible to predict with certainty to what extent the confirmed Order will result in reduced planning fee income although it has been estimated from sampling that a significant drop in the number of householder applications predicted by Scottish Government is unlikely as far as Dundee is concerned.
- 3.2 It is also anticipated that potential applicants will seek confirmation from the Council, in writing, before proceeding with their permitted proposals thereby counterbalancing to a degree the time which would have been spent in determining applications with additional informal assessment work.
- 3.3 In addition, it is anticipated that enforcement workloads will increase to confirm compliance with the Order as developments enter the construction phase.

## **4 BACKGROUND**

- 4.1 The consultation paper concerns proposed variations to the rules governing the relaxation of planning controls in relation to dwellinghouses (not applicable to flats or buildings containing flats). This initiative is part of the Scottish Government's proposals for the modernisation of the planning system due to be implemented on a phased basis during 2009. The intention of the revisions proposed are "intended to remove a significant number of minor householder planning applications from the planning system" (Para 1.2). Estimates commissioned by the Scottish Government in 2006 recommended changes that would allow some 38% (or approximately 19,000) of household applications to be removed from the planning process. This has been estimated to amount to a saving of fees to applicants in the order of £1.4 million per annum based on 2006/2007 figures.

- 4.2 The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended (the GPDO) currently grants planning permission for certain classes of development including, but going beyond, householder developments. The need for planning permission already allows individuals freedom to develop their property without planning permission provided the proposed development complies with the terms of the Order.
- 4.3 The Scottish Government's proposals when confirmed in a revised Order will replace the existing rules which relate to householder developments (extensions, dormers, other roof alterations, porches, decking, walls, fences etc). The remaining provisions of the Order relating to non-householder proposals will remain in force although it is proposed to amend these also in due course.
- 4.4 Members may view the consultation paper at [www.scotland.gov.uk/Publications/2008](http://www.scotland.gov.uk/Publications/2008) The main proposed changes are summarised below with a comparison between the existing and proposed rules being provided in Annex A to this report.
- 4.5 The Council has been asked to respond to a series of 27 questions based on its consideration of the proposals. These are outlined in Annex B together with draft recommended responses.
- 4.6 It is intended to increase the level of development by householders which is allowed without applying for planning permission by making the following key changes:
- Increasing the limit on such development within the curtilage of a house from 30% to 40% of the curtilage (excluding the development footprint of the original dwellinghouse);
  - Increasing the proportional limit of the increase in the size of the original dwellinghouse from 20% of the total internal floor area to 50% of the development footprint of the original dwellinghouse (subject to a height limit);
  - Relaxing the restrictions on roof alterations on certain rear and side elevations to allow the construction of dormer extensions or other extensions which enter the roof;
  - Relaxing certain restrictions on development near roads;
  - Introducing new rights covering decking, small porches and alterations to chimneys;
  - Introducing a single height restriction of 4 metres for separate development within the curtilage of a dwellinghouse.

It is intended to introduce the following changes to standard conditions and restrictions to prevent overdevelopment as a result of the above changes:

- An absolute limit of 60m<sup>2</sup> on the area of the curtilage of the dwellinghouse which can be developed (excluding the development footprint of the original dwellinghouse);
- A limit of 40% on the area of the rear curtilage which can be developed (excluding the development footprint of the original dwellinghouse);

- No permitted development within 1 metre of the property boundary;
- No permitted development over 1 metre in height within 5 metres of a road if it is nearer to the road than the original dwellinghouse; and
- Development must not involve works to or forming an access to a trunk road or classified road.

4.7 Although the council's detailed response to the standard questions posed is contained in Annex B to this report, the following general conclusions emerge:

- a the proposed Order in many respects is as complex and difficult to comprehend as its predecessor and this may lead to inconsistent interpretation and misapplication;
- b the finalised Order therefore must be accompanied by a simple to read and understandable narrative supplemented by diagrams;
- c the proposals read as an inevitable compromise solution to guard against any significant erosion of neighbour amenity but which may not lead to the levels of reduction in application numbers predicted in the report;
- d consequently, it is considered that there will be limited scope for achieving the desired shift in resources away from householder planning issues and towards more major projects and plan making;
- e an alternative model for testing might have been the introduction of a national generic permitted development code supplemented by local statutory codes promoted by local authorities to suit local circumstances; and
- f it is considered that the complexity of the Order will lead to householders and agents seeking written confirmation as to whether their proposals need planning permission. This raises the issue as to whether Councils should make a charge for giving such advice or alternatively to insist that in every case an application for a Certificate of Lawfulness of Proposed Use or Development is submitted involving the payment of a statutory fee. This would confirm or otherwise immunity from enforcement action.

## **5 POLICY IMPLICATIONS**

- 5.1 This Report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management. There are no major issues.

## **6 CONSULTATIONS**

- 6.1 The Chief Executive, Depute Chief Executive (Support Services), Depute Chief Executive (Finance), Head of Finance and Assistant Chief Executive have been consulted and are in agreement with the contents of this report.

## **7 BACKGROUND PAPERS**

- 7.1 The following background papers are of relevance:

- a Householder Permitted Development Rights - Consultation Paper - Scottish Government - December 2008;
- b Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended;
- c Review of the General Permitted Development Order 1992: Householder Development - Social Research Consultants Report - Scottish Government: 2006.

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6 February 2009

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## ANNEX A: EXISTING AND PROPOSED HOUSEHOLDER CLASS PERMITTED DEVELOPMENT RIGHTS COMPARED

Class	Existing GPDO 1992 (as amended)	Proposed dHPDO 2008
<p>1 - Enlargement, improvement or other alteration of a dwellinghouse</p> <p><i>Floor area</i></p> <p><i>Building height</i></p> <p><i>Relationship to road</i></p>	<p>Development is <u>not permitted</u> by this class if</p> <p>a the floor area of the resulting building would exceed the floor area of the original dwellinghouse</p> <p>i in the case of a terrace house or of a dwellinghouse in a conservation area by more than 16m<sup>2</sup> or 10%, whichever is the greater;</p> <p>ii in any other case, by more than 24m<sup>2</sup> or 20%, whichever is the greater;</p> <p>iii in any case by more than 30m<sup>2</sup>.</p> <p>b the height of the resulting building would exceed the height of the highest part of the roof of the original dwellinghouse;</p> <p>c</p> <p>i in the case of a dwellinghouse within a conservation area any part of that development would extend beyond the building line of the original dwellinghouse on any side of the house where its curtilage is bounded by a road;</p> <p>ii in any other case any part of that development would be both less than 20 metres from any road which bounds its curtilage and would be nearer to the road than the part of the original dwellinghouse nearest to it.</p>	<p>Development is <u>not permitted</u> by this class if</p> <p>a the development footprint of the resulting building would exceed the development footprint of the original dwellinghouse</p> <p>i in the case of a dwellinghouse in a conservation area or within the curtilage of a listed building by more than 10m<sup>2</sup>;</p> <p>ii in any other case, by more than 50%.</p> <p>b the height of the resulting building would exceed the height of the highest part of the roof of the existing dwellinghouse (excluding any chimney);</p> <p>c in the case of a dwellinghouse within a conservation area or within the curtilage of a listed building any part of the resulting building would</p> <p>i extend beyond the building line of the original dwellinghouse on any side of the house where its curtilage is bounded by a road;</p> <p>ii consist of or include the cladding of any part of the exterior with stone, artificial stone, timber, plastic or tiles or any other material; and</p>

Class	Existing GPDO 1992 (as amended)	Proposed dHPDO 2008
<i>Distance from boundary</i>	<p>d any part of the development which would be within 2 metres of the boundary of the curtilage of the dwellinghouse</p> <p>i would be increased in height as a result of the development; and</p> <p>ii would exceed 4 metres in height.</p>	<p>d any part of the resulting building would be within 2 metres of the boundary of the dwellinghouse and</p> <p>i would be increased in height as a result of the development; and</p> <p>ii would exceed 4 metres in height.</p> <p>e any part of the resulting building would be within 1 metre of the boundary of the dwellinghouse;</p> <p>f the enlarged part of the dwellinghouse would extend beyond a wall which</p> <p>i fronts a road; and</p> <p>ii forms either the principal elevation or a side elevation of the original dwellinghouse.</p> <p>g any part of the resulting building would be more than 1 metre in height and would be both less than 5 metres from any road and would be nearer to that road than the part of the original dwellinghouse nearest to it; or</p> <p><u>Notes</u> For the purposes of this class “resulting building” means the dwellinghouse as enlarged, improved or altered, taking into account any previous enlargement, improvement or alteration to the original dwellinghouse.</p>

Class	Existing GPDO 1992 (as amended)	Proposed dHPDO 2008
<p><i>Roof of original dwellinghouse</i></p>	<p>e the total area of ground covered by buildings within the curtilage (other than the original dwellinghouse) would exceed 30% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);</p> <p>f it would consist of or include the installation, alteration or replacement of a satellite antenna;</p> <p>g it would consist of or include the erection of a building within the curtilage of a listed building;</p> <p>h it would consist of or include any alteration to the roof of the original dwellinghouse; or</p> <p>i in the case of a dwellinghouse in a conservation area the development would consist of or include the cladding of any part of the exterior with stone, artificial stone, timber, plastic or tiles or any other material.</p> <p><u>Notes</u> For the purposes of this class:</p> <p>a the erection within the curtilage of a dwellinghouse of any building with a floor area greater than 4m<sup>2</sup> and within 5 metres of any part of the dwellinghouse shall be treated as the enlargement of the dwellinghouse for all purposes;</p>	<p>h it would consist of or include any development which falls within classes 2(1) (alteration to a roof), 3(1) (building or pool in curtilage), 6(1) (microwave antenna), 9(1) (stone cleaning), 11(1) (porch) or 12(1) (chimney, flue or soil pipe) of this Schedule.</p>

Class	Existing GPDO 1992 (as amended)	Proposed dHPDO 2008
	<p>b where any part of the dwellinghouse would be within 5 metres of an existing building within the same curtilage, that building shall be treated as forming part of the resulting building for the purpose of calculating the floor area;</p> <p>c "resulting building" means the dwellinghouse as enlarged, improved or altered, taking into account any previous enlargement, improvement or alteration to the original dwellinghouse, whether permitted by classes 1 to 6 or not;</p> <p>"terrace house" means a dwellinghouse</p> <p>i situated in a row of three or more buildings used, or designed for use, as single dwellinghouses; and</p> <p>ii having a mutual wall with, or having a main wall adjoining the main wall of, the dwellinghouse (or building designed for use as a dwellinghouse) on either side of it at the end of a row, but includes the dwellinghouses at each end of such a row of buildings as is referred to.</p>	
<p>2 - Alteration to the roof of a dwellinghouse</p> <p><i>Roof height</i></p>	<p>Development is <u>not permitted</u> by this class if</p> <p>a any part of the dwellinghouse would as a result of the works, exceed the height of the highest part of the existing roof;</p>	<p>Development is <u>not permitted</u> by this class if</p> <p>a any part of the dwellinghouse would as a result of the works, exceed the height of the highest part of the existing roof (excluding any chimney);</p>



Class	Existing GPDO 1992 (as amended)	Proposed dHPDO 2008
<i>Roof plane</i>	b any part of the dwellinghouse would, as a result of the works, extend 10 centimetres beyond the plane of any existing roof slope;	b any part of the dwellinghouse would, as a result of the works, extend 20cm beyond the plane of any existing roof slope which <ul style="list-style-type: none"> <li>i fronts a road; and</li> <li>ii forms either the principal elevation or a side elevation of the dwellinghouse.</li> </ul>
<i>Roof area</i>	c the roof area of the enlargement exceeds 10% of the roof area of the dwellinghouse before development;	c where the development does not increase the development footprint of the existing dwellinghouse <ul style="list-style-type: none"> <li>i any part of the addition or alteration to the roof would be within 1 metre of the edge of the roof and where the roof adjoins another dwellinghouse 1 metre from that dwellinghouse;</li> <li>ii it consists of any addition or alteration to a roof <ul style="list-style-type: none"> <li>• within 50 centimetres from the eave of the plane of the roof;</li> <li>• within 50 centimetres below the ridge of a roof.</li> </ul> </li> </ul>
<i>Roofing material</i>	d any roofing material used would materially affect the external appearance of the dwellinghouse;	d more than 40% of any plane of the existing roof would be subject to development;
<i>Conservation Areas/ Listed Buildings</i>	e the dwellinghouse is in a conservation area;	e the dwellinghouse is within a conservation area or the curtilage of a listed building; <ul style="list-style-type: none"> <li>f any part of the addition or alteration to the roof within 2 metres of the boundary of the dwellinghouse <ul style="list-style-type: none"> <li>i would be increased in height as a result of the development; and</li> <li>ii would exceed 4 metres in height; or</li> </ul> </li> </ul>

Class	Existing GPDO 1992 (as amended)	Proposed dHPDO 2008
		<p>g it would consist of or include any development which falls within class 12(1) (chimney, flue or soil and vent pipe) of this Schedule.</p> <p>Development is permitted by this class subject to the condition that where the enlarged part of the dwellinghouse has more than one storey, the roof pitch of the enlarged part must be the same as the roof pitch of the plane of the existing dwellinghouse.</p>
<p>3 - Buildings/Swimming Pools within the curtilage of a dwellinghouse</p> <p><i>Distance from/relationship to a road or dwellinghouse</i></p> <p><i>Floorspace/relationship to original dwellinghouse</i></p>	<p>Development is <u>not permitted</u> by this class if</p> <p>a it consists of a building or enclosure where any part of such building or enclosure to be constructed would be both less than 20 metres from any road which bounds its curtilage and would be nearer to the road than the part of the original dwellinghouse nearest to it;</p> <p>b it consists of a building where the building to be constructed or provided would have a floor area greater than 4m<sup>2</sup>, any part of it would be within 5 metres of any part of the dwellinghouse;</p>	<p>Development is <u>not permitted</u> by this class if it consists of a dwelling or a microwave antenna.</p> <p>Development, other than maintenance, is <u>not permitted</u> by this class if</p> <p>a any part of the building, swimming or other pool would be on land which</p> <p>i fronts a road; and</p> <p>ii is forward of a wall forming the principal elevation or a side elevation of the original dwellinghouse.</p> <p>b any part of the building, swimming or other pool would be within 1 metre of the boundary of the dwellinghouse;</p>

Class	Existing GPDO 1992 (as amended)	Proposed dHPDO 2008
<i>Height</i>	<p>c the height of that building or enclosure would exceed</p> <p>i 4 metres, in the case of a building with a ridged roof; or</p> <p>ii 3 metres, in any other case;</p>	<p>c any part of the building would exceed 4 metres in height;</p> <p>d any part of the building would be more than 1 metre in height and would be both less than 5 metres from any road and would be nearer to that road than the part of the original dwellinghouse nearest to it;</p> <p>e in the case of any land in conservation areas or land within the curtilage of a listed building, it would consist of the provision, alteration or improvement of a building with a development footprint greater than 4m<sup>2</sup>; or</p> <p>f it would consist of or include any development which falls within Class 10(1) (decking).</p>
<i>Ground cover</i>	d the total area of ground covered by buildings or enclosures within the curtilage (other than the original dwellinghouse) would exceed 30% of the total area of the curtilage (excluding the ground area of the original dwellinghouse); or	
<i>Conservation areas/curtileges of listed buildings</i>	e in the case of any land in a conservation area or land within the curtilage of a listed building, it would consist of the provision, alteration or improvement of a building with a floor area greater than 4m <sup>2</sup> .	
<i>General</i>	For the purposes of this class "purpose incidental to the enjoyment of the dwellinghouse" includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse.	

Class	Existing GPDO 1992 (as amended)	Proposed dHPDO 2008
<p>4 - Hard surfaces within curtilages of dwellinghouses</p> <p><i>General pd rights</i></p> <p><i>Conservation areas/curtilage of listed building</i></p>	<p>a The provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse.</p> <p>b Development is not permitted by this class within a conservation area or within the curtilage of a listed building.</p>	<p>a The provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse or the replacement in whole or in part of such a surface.</p> <p>b Development is not permitted by this class if it would be within a conservation area or within the curtilage of a listed building.</p>
<p>5 - Oil/liquefied petroleum gas storage</p> <p><i>Conservation areas/curtilage of listed building</i></p> <p><i>Capacity</i></p> <p><i>Height</i></p> <p><i>Relationship to road and original dwellinghouse</i></p>	<p>Development is <u>not permitted</u> by this class if</p> <p>a it would be within a conservation area or within the curtilage of a listed building;</p> <p>b the capacity of the container would exceed 3,500 litres;</p> <p>c any part of the container would be more than 3 metres above ground level;</p> <p>d any part of the container would be both less than 20 metres from any road which bounds its curtilage and would be nearer to the road than the part of the original dwellinghouse nearest to it;</p>	<p>Development is <u>not permitted</u> by this class if</p> <p>a it would be within a conservation area or within the curtilage of a listed building;</p> <p>b the capacity of the container would exceed 3,500 litres;</p> <p>c any part of the container would be more than 3 metres in height;</p> <p>d any part of the container would be within 1 metre of the boundary of the dwellinghouse;</p>

Class	Existing GPDO 1992 (as amended)	Proposed dHPDO 2008
<p><i>Number of containers</i></p>	<p>e it would result in more than one container within the curtilage of a dwellinghouse.</p>	<p>e it would result in more than one container within the curtilage of a dwellinghouse;</p> <p>f any part of the container would be more than 1 metre in height and would be both less than 5 metres from any road and would be nearer that road than the part of the original dwellinghouse nearest to it; or</p> <p>g any part of the container would be situated on land</p> <p>i which fronts a road; and</p> <p>ii is forward of a wall forming the principal elevation or a side elevation of the dwellinghouse.</p>
<p>6 - Installation, alteration or replacement of microwave antennae</p> <p><i>Number and size of antenna</i></p>	<p>Development is <u>not permitted</u> by this class if it would result in</p> <p>a more than one satellite antenna on the dwellinghouse or within its curtilage;</p> <p>b the size of the satellite antenna (excluding any projecting feed element) when measured in any dimension exceeding 90 centimetres;</p>	<p>Development is not permitted by this class if</p> <p>a it would result in the presence on a dwellinghouse, or within the curtilage of a dwellinghouse of</p> <p>i more than two microwave antennas;</p> <p>ii a single microwave antenna exceeding 100 centimetres in length;</p> <p>iii two microwave antennas which do not meet the relevant size criteria;</p>

Class	Existing GPDO 1992 (as amended)	Proposed dHPDO 2008
<i>Relationship to roof</i>	c the highest part of any antenna to be installed on a dwellinghouse being higher than the highest part of the roof on which it would be installed; or	<p>iv a microwave antenna installed on a chimney, where the length of the antenna would exceed 60 centimetres;</p> <p>v a microwave antenna installed on a chimney, where the antenna would protrude above the chimney;</p> <p>vi a microwave antenna with a cubic capacity in excess of 35 litres;</p> <p>b in the case of a microwave antenna to be installed on a roof without a chimney, the highest part of the antenna would be higher than the highest part of the roof;</p> <p>c in the case of a microwave antenna to be installed on a roof with a chimney, the highest part of the antenna would be higher than the highest part of the chimney, or 60 centimetres measured from the highest part of the ridge tiles of the roof, whichever is the lower;</p> <p>d in a designated area it would consist of the installation of a microwave antenna on a chimney, wall or roof slope which faces onto, and is visible from, a road.</p>
<i>Other</i>	d the satellite antenna being installed in a conservation area or national scenic area on any part of a dwellinghouse which faces on to a road.	<p>Development is permitted by this class subject to the following conditions:</p> <p>a the microwave antenna shall, as far as practicable, be sited so as to minimise its effect on the external appearance of the building on which it is installed; and</p> <p>b a microwave antenna no longer needed for reception or transmission purposes shall be removed as soon as reasonably practicable.</p>

Class	Existing GPDO 1992 (as amended)	Proposed dHPDO 2008
		<p>The length of a microwave antenna is to be measured in any linear direction, and shall exclude any projecting feed element, reinforcing rim, mounting or brackets.</p> <p>For the purposes of this class</p> <p>“designated area” means a national scenic area, National Park, conservation area, historic garden or designed landscape, or on a Category A listed building or a scheduled monument or within the setting of such a building or, as the case may be, monument; and</p> <p>“relevant size criteria” means that</p> <ul style="list-style-type: none"> <li>i only one of the microwave antennas may exceed 60 centimetres in length; and</li> <li>ii any microwave antenna which exceeds 60 centimetres in length must not exceed 100 centimetres in length.</li> </ul>
<p>7 - Erection, construction, maintenance, improvement or alteration of gates, fences, walls etc</p> <p><i>Height/relationship to road</i></p>	<p>Development is <u>not permitted</u> by this class if</p> <ul style="list-style-type: none"> <li>a the height of any gate, fence, wall or other means of enclosure to be erected or constructed within 20 metres of a road would, after the carrying out of the development, exceed 1 metre above ground level;</li> </ul>	<p>Development is <u>not permitted</u> by this class if</p> <ul style="list-style-type: none"> <li>a the height of any gate, fence, wall or other enclosure to be erected or constructed would exceed one metre in height and would be both less than 5 metres from any road and would be nearer that road than the part of the original dwellinghouse nearest to it;</li> </ul>

Class	Existing GPDO 1992 (as amended)	Proposed dHPDO 2008
<i>Conservation area/listed buildings</i>	<p>b the height of any other gate, fence, wall or other means of enclosure to be erected or constructed would exceed 2 metres above ground level;</p> <p>c the height of any existing gate, fence, wall or other means of enclosure maintained, improved or altered would, as a result of the development, exceed its former height or the height referred to in subparagraph (a) or (b) as the height appropriate to it if erected or constructed, whichever is the greater; or</p> <p>d it would involve development within the curtilage of, or in respect of a gate, fence, wall or other means of enclosure surrounding, a listed building.</p>	<p>b the height of any other gate, fence, wall or other enclosure to be erected or constructed would exceed 2 metres in height;</p> <p>c the height of any existing gate, fence, wall or other enclosure maintained, improved or altered would exceed its former height or the height referred to in (a) and (b), whichever is the greater;</p> <p>d any part of the gate, fence, wall or other enclosure would exceed 1 metre in height where it</p> <p>i fronts a road; and</p> <p>ii is forward of a wall forming the principal elevation or a side elevation of the dwellinghouse.</p> <p>e it would be within a conservation area or within the curtilage of a listed building.</p>
8 - Means of access to a non-trunk road or non-classified road	The formation, laying out and construction of a means of access to a road which is not a trunk road or a classified road, where that access is required in connection with development permitted by any class in this Schedule other than Class 7.	The formation, laying out and construction of a means of access to a road which is not a trunk road or a classified road, where that access is required in connection with development permitted by any class in this Schedule other than Class 7 (gate, fence, wall or other means of enclosure).
9 - Stone cleaning or painting of exterior of dwellinghouse	<p>Development is <u>not permitted</u> by this class</p> <p>a for the purposes of advertisement, announcement or direction;</p> <p>b where the building or works are in a conservation area; or</p> <p>c where the building is a listed building.</p>	<p>Development is <u>not permitted</u> by this class</p> <p>a for the purposes of advertisement, announcement or direction;</p> <p>b where the building or works are in a conservation area; or</p> <p>c where the building is a listed building.</p>



Class	Existing GPDO 1992 (as amended)	Proposed dHPDO 2008
	For the purposes of this class, "painting" includes any application of colour.	For the purposes of this class, "painting" includes any application of colour.
10 - Erection, construction, maintenance, improvement or alteration to decking or other raised platform	No equivalent class	<p>Development is <u>not permitted</u> by this class if</p> <ul style="list-style-type: none"> <li>a any part of the deck or raised platform would <ul style="list-style-type: none"> <li>i be within 2 metres of the boundary of the dwellinghouse; or</li> <li>ii have a height of more than 1 metre;</li> </ul> </li> <li>b the deck or raised platform would be situated on land which <ul style="list-style-type: none"> <li>i fronts a road; and</li> <li>ii is forward of a wall forming the principal elevation or a side elevation of the dwellinghouse.</li> </ul> </li> <li>c in the case of any land in a conservation area or land within the curtilage of a listed building it would consist of the erection, construction, maintenance, improvement or alteration of a deck or other raised platform with a development footprint greater than 4m<sup>2</sup>.</li> </ul>
11 - Erection or construction of a porch	No equivalent class	<p>Development is <u>not permitted</u> by this class if</p> <ul style="list-style-type: none"> <li>a the development footprint of the porch would exceed 3m<sup>2</sup>;</li> <li>b any part of the porch would be both less than 5 metres from any road and nearer to the road than part of the original dwellinghouse nearest to it;</li> </ul>

Class	Existing GPDO 1992 (as amended)	Proposed dHPDO 2008
		<ul style="list-style-type: none"> <li>c any part of the porch would be within 1 metre of the boundary of the dwellinghouse;</li> <li>d it would be within a conservation area;</li> <li>e it would consist of or include any development under Class 1 (I) (alteration of a dwellinghouse).</li> </ul>
12 - Installation, alteration or replacement of a chimney, flue, soil/vent pipe	No equivalent class	<p>Development is <u>not permitted</u> by this class if</p> <ul style="list-style-type: none"> <li>a the height of the chimney, flue or soil and vent pipe would exceed the highest part of the roof by 1 metre or more; or</li> <li>b in the case of a dwellinghouse within a conservation area, the chimney, flue or soil and vent pipe would be installed on a wall or roof slope which <ul style="list-style-type: none"> <li>i fronts a road; and</li> <li>ii forms either the principal elevation or a side elevation of the dwellinghouse.</li> </ul> </li> </ul>

**ANNEX B - QUESTIONS AND RESPONSES**

<b>Question</b>	<b>Recommended Response</b>
Q1 Do you agree with this change from floor area to development footprint/ground area?	This has the potential to encourage poorly designed 2+ storey extensions with a small floorspace footprint on relatively modest properties on large but exposed sites. It is suggested that developments over a single storey in height should require planning permission.
Q2 Do you agree with the new approach to principal, side and rear elevations?	Side and rear elevations have the potential to be the most prominent and exposed elevations where there is no effective boundary screening, irrespective of the proposed development's proximity to adjacent roads. The principal elevation has the potential in some layouts to be the least exposed or prominent. Unsightly permitted developments could therefore result.
Q3 Do you believe that issues regarding road safety are sufficiently addressed by the restrictions on PDR set out in Article 3 of the draft Householder Permitted Development Order and the height limit of 1 metre within 5 metres of a road?	This may be less of an issue in urban areas where sightlines are protected. Could be an issue with properties at narrow/tight junctions in several locations. It is recommended that the restrictions outlined in Article 3 be repeated in each Class for the avoidance of doubt and misinterpretation.
Q4 Do you agree with the overall limit on development of the curtilage (excluding the original dwelling) of 40%?	Agreed. This would have been more of an issue had other control criteria not been applied. The definition of curtilage in Article 2 is not considered precise enough.
Q5 Do you agree with the additional limit on the development of rear curtilage of 40%?	Agreed.
Q6 Do you agree with an absolute limit of 60m <sup>2</sup> ?	Agreed.
Q7 Do you agree with the additional conditions and restrictions on householder PDR in conservation areas contained in the draft Householder Permitted Development Order?	Refer to response to Question 9 on following page.

Question	Recommended Response
Q8 Do you agree with the additional conditions and restrictions on householder PDR within the curtilage of listed buildings as set out in the draft householder permitted development order?	Refer to response to question 9 below. However, it would appear that the advice given by Historic Scotland in "Scottish Historic Environment Policy" October 2008 requires to be made compatible.
Q9 Should there simply be no permitted development in relation to conservation areas or the curtilage of listed buildings?	The removal of all permitted developments rights in conservation areas and in respect of listed buildings as a clear and unambiguous restriction would add clarity and remove the need for complex Article 4 Directions. However, this approach has the disadvantage of planning permission being required in Conservation Areas, for example, for garden sheds and satellite dishes in totally concealed locations.
Q10 Should additional statutory restrictions be placed on householder PDR within World Heritage Sites?	Although there are no World Heritage designations in Dundee, the integrity of these important heritage designations may best be served by removing all householder permitted development rights.
Q11 If so, what level of control should be applied (eg similar to that for conservation areas or a total restriction)?	Refer to response to Question 10 above.
Q12 Do you have any comments on the extent of designated areas where restrictions will apply?	The definition of "designated area" is included in Class 6 only and should rather be included in the definitions in Article 2.
Q13 In your experience, do planning authorities treat the addition of ramps and handrails to the exterior of houses to assist the elderly or disabled people as requiring an application for planning permission?	In most cases where they do not materially affect the appearance of the building these are either treated as "de minimis" not requiring planning permission (those attached to listed buildings require listed building consent and those in conservation areas where Article 4 Directions apply, require planning permission). Those involving flats require planning as no permitted development rights apply.
Q14 Do respondents believe that replacement and alteration of existing windows in flats, without altering the overall size of the window opening should be permitted development?	No planning permission should be required outwith conservation areas. (listed building consent will be required in respect of listed buildings, as is the case at present).

Question	Recommended Response
<p>Q15 Do respondents believe there should be specific PDR to allow flagpoles to be erected within the curtilage of a dwellinghouse?</p>	<p>Yes. However, this right should restrict PD to a single flagpole per property, on a building or within its curtilage. No PD in this respect should be given to flats. The height of the flagpole should be restricted to the height of the eaves of the property. Planning control should relate to the pole only and not the flag. No PD should apply in conservation areas and in respect of listed buildings and buildings in other designated others. It is recommended that a separate Class of PD is devoted to this category.</p>
<p>Q16 If so, what controls should there be on the height of flagpoles and on their location, with particular regard to designated areas?</p>	<p>Refer to response to Question 15 above.</p>
<p>Q17 <i>Questions on Classes (Classes 1-12)</i></p> <ul style="list-style-type: none"> <li>• Are the grant of permission and the restrictions and conditions clear?</li> <li>• Will these controls release a significant number of proposals (see paragraph 1.3) from the planning application process?</li> </ul>	<p>Not entirely. The Consultation Paper is complex and deals with matters of interest to communities and individual householders. The involved text would have benefited from diagrammatic support. It is suggested that the confirmed Order is accompanied by clear, unambiguous simply written explanatory notes supported by diagrams. For professionals who need to interpret the statutory instrument itself, it is relatively clear. However, Article 3 should specifically be written into the Classes to which the restrictions apply.</p> <p>The Council has tested the proposed rules across a random sample of householder applications decided in 2008 and found that in approximately 90% of cases PP would still be required. This is in large part due to controls which still apply to developments near a curtilage boundary; or between a property and a road; to developments in front of a property; and to restrictions which will apply to the size and location of dormer extensions. However, it is considered that once the new rules are established the proportion of developments needing PP may decrease as proposals are amended to meet the require criteria. Therefore, the principal objective of the Order in the first place may not be achieved and where resources are released from the application process these may be consumed by providing advice or in the enforcement service.</p>

Question	Recommended Response
<ul style="list-style-type: none"> <li>Are there any changes to the controls which might mean significant further reduction in planning applications without undermining amenity?</li> </ul>	<p>It is the Council's view that significant reductions in levels of control would lead to an increased risk of local amenity being considerably affected through poor design or overlooking/overshadowing of neighbours.</p>
<p>Q18 Do respondents agree with the addition of requirements on drainage to PDR for new and replacement hard surfaces over an area of 5m<sup>2</sup> between the principal elevation and the road?</p>	<p>It is considered that whilst the sustainability benefits are recognised the introduction of conditional PD rights relating to the use of porous materials is likely to be unenforceable and therefore largely ineffective.</p>
<p>Q19 Do respondents think the changes to permitted development rights as drafted will achieve the Scottish Government's aim of removing a significant amount of householder development from the planning application process?</p>	<p>The Council does not believe that for its area the introduction of the changes will result in a significant reduction in number applications. See response to Question 17 above.</p>
<p>Q20 If not, what particular alterations to the draft Householder Permitted Development Order might significantly reduce the number of householder planning applications?</p>	<p>Please refer to response to Question 17 above. Only radical relaxations of PD rights are likely to achieve this objective. The opportunity to radically amend the definition of "development" in the new primary legislation was not taken up, leaving this Order to address the issue. The dilemma then had to be faced of finding an appropriate balance, established by planning as opposed to other legislation, between the freedom of the individual to make changes to their property and the impact of that change on near neighbours and the wider neighbourhood. The result has inevitably been a complex code of rules which will be challenging for the lay person to fully understand and apply accurately and consistently.</p> <p>An alternative approach might have been to apply a set of national codes supplemented by locally based statutory codes promoted by individual Councils and tailored to their individual situations.</p>
<p>Q21 What effects might any suggested changes have on amenity issues?</p>	<p>Further relaxations are likely, in urban areas, to lead to issues of unsatisfactory design, overshadowing and overlooking.</p>

Question	Recommended Response
Q22 Do respondents believe that the provisions of the draft Householder Permitted Development Order pay sufficient regard to the impact on local amenity?	The thrust of the argument in support of the proposed changes is to reduce the number of applications in the system rather than to promote better or neutral impacts on local amenity. It is considered that the proposed rules will neither improve nor have a large scale negative impact.
Q23 If not, what particular alterations to the draft Householder Permitted Development Order might address some or all of these issues?	As indicated above the restriction of PD rights to single storey developments may assist.
Q24 What particular issues would you like to see addressed in the guidance accompanying the changes to householder permitted development rights?	A much clearer and simpler guide to the very legalistic Order itself is essential. It is possible to illustrate this guide by showing examples of the effects of applying the controls.
Q25 Are there any costs or benefits not identified in the draft RIA?	As mentioned above the Council doubts, in view of the redrafted controls, whether the predicted fall in the number of applications will be realised.
Q26 If so, do you have any information or can you suggest sources of relevant information on these costs and/or benefits?	The response to Question 25 can only be confirmed by more rigorous testing of the potential impact of the Order and this should be done before the revised Order is confirmed.
Q27 Are there any potential impacts on particular societal groups that we should be aware of in finalising the Order?	No comment.
Additional Points	<ul style="list-style-type: none"> <li>It had been anticipated that after consultation Scottish Ministers would announce a revision to planning fees to compensate for the anticipated additional financial burden on Councils arising from the new Planning Act. This consultation has not taken place and, therefore, there can be no certainty that the planning system can be adequately resourced to deliver a modernised planning system</li> </ul>

Additional Points (continued)	<ul style="list-style-type: none"><li>• Much of the difficulty in relation to householder developments arises from the relationship between neighbours and (often unfounded) fears that their neighbours' proposals might affect the value of their property (not a planning matter) or impact on the enjoyment they currently derive from their property by overlooking or overshadowing. Planning therefore fulfils a mediation role often too late in the process. The Scottish Government could therefore explore options for more effective mediation, outwith the planning process.</li><li>• The issue of balconies does not appear to be mentioned within the proposed Order.</li><li>• The results of previous consultations on permitted development for micro-renewables should have been incorporated.</li><li>• Advice from the Scottish Government would be welcome as to how issues of overshadowing and overlooking (if they are to continue to be material considerations) can be more effectively dealt with by Councils.</li><li>• Although no questions were asked about the proposals for decking and porches the Council welcomes the provisions. However, clarification is required on the meaning of the term "height" in Class 10 2(d) (ii).</li></ul>
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