



**environmental
protection uk**

Environmental Protection UK,
44 Grand Parade,
Brighton,
BN2 9QA

22 October 2009

Improving Permitted Development Consultation

We are writing in response to your consultation Improving Permitted Development. Environmental Protection UK has considered the consultation document and welcomes the opportunity to comment.

1. About Environmental Protection UK

Environmental Protection UK brings together organisations from across the public, private and voluntary sectors to promote a balanced and innovative approach to understanding and solving environmental problems, through policy development and education. We are a registered charity with 110 years experience of environmental campaigning, public information provision, producing educational resources and policy formulation. Environmental Protection UK's membership includes policy makers, regulators and practitioners from local authorities, consultants, developers, academics, industry and interested NGOs.

2. Policy Context

The comments of Environmental Protection UK relate here specifically to proposals for expansion of warehousing, permitted development for air conditioning units and to changes to permitted development for industrial hard surfacing. Overall, we see no evidence of any improvements in permitted development in this proposal, and trust our comments will be fully considered and incorporated in a future draft.

In summary :

Extension of industry and warehousing

- Proposals for expansion for industry and warehousing may result in irresponsible and unnecessary soil sealing and fail to properly address contamination issues.

Permitted Development for Air Conditioning Units (ACU)

- Given the stated obligations to meet climate change targets for emissions, as well as adaptation and mitigation, allowing the free installation of energy hungry, heat emitting plant is totally wrong headed.
- We are concerned that noise limits suggested for air conditioning have not been properly, if at all, considered, are very likely too low, and likely to cause nuisance complaints.
- We find it inequitable that it is proposed to disallow installation on aesthetic grounds, while siting at rear of buildings, which is more likely to face residential property, is proposed to be permitted

- No regard is given to potential for noise or other nuisances, which are notoriously difficult to remedy from ACU.

Industrial hard surfacing

- We believe that in order to promote sustainable development, the objectives enshrined in the Government's recent soil strategy: Safeguarding our Soils, unlimited impermeable hard-surfacing cannot be allowed as a permitted development right.
- We are concerned at the inadequacy of the requirement simply for drainage to a permeable area. In the context of climate change adaptation and mitigation the path of water run-off needs more detailed consideration to avoid flash flooding.
- The consequences of failing to address the risks of contamination and how migration pathways may be affected by flooding are likely to result in significant financial costs and inconvenience to the operator, cancelling out any possible benefits of permitted development rights.

Question 5: What are your comments on the proposals for industry and warehousing?

We are concerned at this proposed blanket exemption for extension to an industrial installation or warehouse that appears to have no regard to potential nuisance impacts on neighbours. Unmanaged expansion has potential to result in increased noise levels at neighbouring properties, if any extension is used to house noise producing plant, or contains openings which allow noise from inside to escape more easily. There appears to be no requirement to consider use of any new building. We believe developers should be required to ensure that noise levels at neighbouring properties are not likely to increase as a consequence of any development, and that no other nuisances such as odour or light pollution are not created. We are also concerned that permitted extensions on adjoining sites might have cumulative impacts on neighbours.

Question 6: Should permitted development be expanded to include air conditioning units?

No, for the reasons given in answer to questions 7. and 8. The rationale stated behind this is that there is about to be a consultation on permitted development for air source heat pumps. This implies that the outcome of this consultation is a foregone conclusion. Environmental Protection UK are not convinced that at this stage of knowledge of this new technology allowing permitted development is appropriate – as there is the potential for noise nuisance.

Question 7: Given Government objectives on climate change mitigation and adaptation, what impact do you think expanding permitted development rights to include air conditioning units would have on:

a. Take up of air conditioning units

We believe this would be likely to increase if no permission required.

b. The energy efficiency and carbon footprints of building

Any introduction of powered plant will increase energy use and therefore carbon footprint. Making the quick fix of conventional air conditioning readily available would be a disincentive to residents and businesses to investigate passive cooling .

c. the ability of residents and businesses to meet future carbon budgets

As stated above, making it quicker and cheaper for air conditioning to be installed is a disincentive to investigate the currently novel, less energy hungry ways of preventing buildings from overheating. Shading, green walls, green roofs and similar passive cooling will be less likely to be installed if air conditioning units are in place. Also, residents and businesses who find themselves unable to open windows due to noise or warm air emissions from air conditioning units are more likely to find themselves needing mechanical cooling of their buildings. Which would increase carbon budgets for all.

Question 8:

In the event that air conditioning units were to be made permitted development, do you agree with the limitations proposed above? If not, what would you suggest? Are there any other issues that should be considered?

a. Noise Limits

While a noise limit is proposed for individual units, the removal of permitted development does not take into account the potential impact of multiple units. There is potential for multiple units to be installed at the back of a row of properties all of which would be allowed to produce level of 40dBA at 1m from a neighbouring window. The noise level experienced would then be much greater, and potentially higher than the new WHO guide level for night time noise of 40dBA. The metric proposed is too simplistic. For example, in current practice the following is an example of application of a noise rating curve:

'Any plant (including ventilation, refrigeration and air conditioning) or ducting system to be used in pursuance of this permission shall be so installed prior to the first use of the premises and be so retained and operated so that the noise generated at the boundary of the nearest neighbouring property shall not exceed Noise Rating Curve ^IN; as defined by BS8233:1999 Sound insulation and noise reduction for Building Code of Practice and the Chartered Institute of Building Service Engineers (CIBSE) Environmental Design Guide 1999. Details of the scheme shall be submitted to and approved by the Local Planning Authority prior to the first use of the premises and retained thereafter.'

b. Locations

Attaching units to town centre properties is precisely where the warm air from the units might contribute to the urban heat island effect, further contributing to the need for cooling (mechanical or passive) in these areas. We find the presumption that a 40dB level, as proposed for microgeneration in 2007, not agreed, and yet to be further consulted on, is rather a spurious metric to deem appropriate. Research for Defra by Bureau Veritas showed that for micro turbines operating at 40 – 45dB(A)m the likelihood of complaints would be at least 72% in the day and up to 99% at night. This 'improvement' in permitted development therefore, would very likely transfer the burden of management from the planning system to the local authority nuisance service – at potentially greater cost. Further, there is no mention of the potential for low frequency

noise emissions and vibration, which present problems at levels lower than 40dB and are challenging to manage. There is also the potential for odour issues from the units.

d. Aspect

Allowing plant only on the rear of buildings may have aesthetic benefits, but means they are more likely to be located near residential /bedroom windows.

f. Aspect

Overall it appears more regard is being given to aesthetic considerations than to nuisance impacts – which we believe is inequitable.

Given the need to adapt to climate change and reduce energy consumption, and the potential for nuisance impacts, we think permitted development for air conditioning units will not contribute to meeting targets for carbon reduction, climate change mitigation and adaptation and has the potential to undermine local environmental quality both through noise and odour and aesthetically.

For these reasons, we are of the firm opinion that permitted development is not appropriate for acu.

Question 13: Do you agree that industry’s current permitted development right to lay an unlimited amount of hard-surfacing should be amended so that industry should be able to lay an unlimited amount of hard-surfacing provided provision is made for surface water to drain to a permeable area (unless there is a risk of contamination, in which case hard-surfacing would have to be impermeable)?

The environmental drivers to mitigate soil sealing are not solely focussed on floodwater management. Soil is a vital resource for reasons of climate change and sequestration of carbon, food security, conserving biodiversity, nutrient cycling, energy production, storage and filtration of water. Sealing with any materials damages essential soil functions. Impermeable materials have a far more detrimental and long-lasting effect. As such, permeable materials should be promoted at all opportunities.

We believe that in order to promote sustainable development and the objectives enshrined in the Government’s recent soil strategy: Safeguarding our Soils, unlimited impermeable hard-surfacing cannot be allowed as a permitted development right. We have here an opportunity to improve this provision to ensure it promotes sustainable development.

The provision makes no reference to soil types. Does this mean industry are permitted to lay unlimited hard surfing over high-grade agricultural land or peat bogs? We seek reassurance that me this is not the intention of this provision, which would contradict associated government policy. This needs to be clarified within this provision to prevent misunderstanding.

Provisions for surface water to drain to a permeable area also needs further elaboration. Significant run-off could overload neighbouring sustainable urban drainage. Provisions for drainage to a permeable surface need to go further to ensure that the drainage area is able to handle the additional water.

Finally risks of contamination need further consideration. Any floodwater will need to drain somewhere; the underlying geology will determine whether or not this affects the fate and transportation of any contamination present in the soil. The requirement for impermeable hard surfacing where there is a risk of contamination is overly simplistic, detailed and site-specific consideration needs to be given where risks of contamination exist, for adequate understanding of the likely effects of flooding. We are concerned that sufficient attention may not be given to the risks of contamination if this remains within permitted development. The consequences of failing to address the risks of contamination and how migration pathways may be affected by flooding are likely to result in significant financial costs and inconvenience to the operator, cancelling out any possible benefits of permitted development rights.

Please get in touch if you require further information:

Mary Stevens : 01273 878781 mary.stevens@environmental-protection.org.uk

Lisa Crews: 01273 878782 lisa.crews@environmental-protection.org.uk