



Alan Groves
Non-Domestic PDRs Consultation
Development Management Branch
Planning Division
Welsh Government
Cathays Park
Cardiff, CF10 3 NQ

10 January 2013

Dear Mr Groves,

Consultation on Proposed Changes to Non-Domestic Permitted Development Rights

Thank you for the opportunity to comment upon this consultation.

The Institute for Archaeologists

The Institute for Archaeologists (IfA) is a professional body for the study and care of the historic environment. It promotes best practice in archaeology and provides a self-regulatory quality assurance framework for the sector and those it serves.

IfA has over 3,200 members and more than 70 registered practices across the United Kingdom. Its members work in all branches of the discipline: heritage management, planning advice, excavation, finds and environmental study, buildings recording, underwater and aerial archaeology, museums, conservation, survey, research and development, teaching and liaison with the community, industry and the commercial and financial sectors. IfA's Wales / Cymru Group has over 100 members practising in the public, private and voluntary sector in Wales.

Furthermore, the IfA is a constituent member of the Archaeology Forum (TAF), a grouping of independent bodies concerned with archaeology, and works closely with other bodies in the sector such as the Association of Local Government Archaeological Officers (ALGAO) and the Council for British Archaeology (CBA).

Proposed Changes to Non-Domestic Permitted Development Rights

General Comments

The Institute supports Welsh Government's continuing desire to improve the operation of the planning application system. An effective planning system is one where the management and protection of the historic environment is part of the solution and not part of the problem, contributing to, rather than compromising, sustainable development. This is particularly important for that part of the historic environment which is undesignated and whose only protection comes from the planning regime.

However, there are concerns in relation to the extension of permitted development rights particularly where operational development involves ground disturbance. Buried remains of archaeological significance (of medieval or earlier origin) are often to be found in settlements on land which is not designated and such remains (including human remains) are discovered in the course of development in such settlements. Such assets are vulnerable to small-scale development and the gradual erosion of the archaeological resource through the cumulative effects

of development.

The presence of such assets would not necessarily prevent development. However, where areas are not currently protected by formal historic environment designation (for instance, by the scheduling of monuments or the listing of buildings), significant damage would be likely to occur if the ability, where appropriate, timeously to investigate, record and increase our understanding of the past through the provisions of the current planning system were lost or compromised. Furthermore, the provision of an efficient mechanism to manage this impact would in many instances expedite the development process where remains (including human remains) would otherwise be found in the course of works.

Current permitted development rights already carry some risks for the historic environment, but it is necessary to ensure that any extension of those rights would not increase that risk to an unacceptable degree given the larger areas and volumes of archaeological deposits at risk and the consequent, potentially greater and irretrievable loss of understanding of their significance. Regulatory mechanisms already exist to address these concerns though the current planning system and other statutory provisions. These include

- designating known heritage assets in these areas as Scheduled Monuments (Scheduling) under Part I of the Ancient Monuments and Archaeological Areas Act 1979. However, there are more proportionate alternatives to the large-scale national designation of assets that this would entail. Moreover, this would not protect as yet unknown assets in areas of high archaeological interest.
- using 'sites of archaeological interest' as defined in the article 1(2) of the Town and Country Planning (General Permitted Development) Order 1995 (GPDO) as the basis (possibly subject to additional criteria) for excluding land from the benefit of the permitted development rights in question or requiring prior approval for their exercise. This is an approach increasingly adopted to the protection of archaeological interests in the permitted development regime in Scotland.
- using 'Areas of Archaeological Importance' as defined in Part II, section 33 of the Ancient Monuments and Archaeological Areas Act 1979 to exclude such areas from the benefit of the permitted development rights in question. Currently, Areas of Archaeological Importance (AAIs) have only been designated in five historic town centres. However, the 1979 Act gives local authorities the power to designate AAIs and, provided that adequate resources are available to local authorities, further areas could be designated where there is a lack of protection as outlined above.
- using the mechanisms in Part II of the 1979 Act (without excluding the areas in question from permitted development rights) to allow investigation, recording and enhancement of public knowledge in newly designated AAIs in advance of development. Those mechanisms might need to be adapted to reflect current conditions (for instance, with regard to the role of the investigating authority), but one of the major benefits of AAI designation to date (in England) has been the facilitation of development by statutory undertakers in pursuance of permitted development rights (and the associated benefits for the historic environment). However, without steps to ensure that AAIs are designated in Wales, any solution involving AAIs would be theoretical rather than real.
- using Article 4 directions to exclude specific areas from the benefit of permitted development rights on grounds of archaeological impact. However, local authorities are often reluctant to issue Article 4 directions viewing them as costly, cumbersome and time-consuming. There have been very few, if any, Article 4 directions on archaeological grounds and we would be concerned if this were to be adopted as the answer to this problem without any steps to ensure that Article 4 directions would actually be made in appropriate cases.

There are issues to be addressed with each of these potential solutions, but IfA firmly believes that such a solution can be found utilising one or more of the above mechanisms. We would be happy

to work with Welsh Government to refine such a response.

Other, more general, issues are identified in response to specific questions.

Specific Questions

Question 1: Do you agree with the above proposed amendments to Part 8 of Schedule 2 to the GPDO?

1.1 Only if adequate and effective safeguards are introduced to manage archaeological remains in the circumstances outlined above.

1.2 Although the limits on floor space for extensions and alterations (1,000sqm or 500 sqm if located on article 1(5) land) are proposed to stay the same under Class A1(e) (and would be subject to a further limitation), the removal of the requirement under A1(f) that development should not materially affect the external appearance of the premises means that, in practice, there would be much more scope to develop relatively large areas of land representing a potentially very large increase in the area and volume of archaeological deposits at risk.

1.3 In addition, the proposal to allow the construction of new buildings up to 100sqm gross floor space would increase that risk.

1.4 For these reasons, while IfA welcomes the proposal to exclude permitted development rights within the curtilage of a listed building, it would also wish to see this exclusion extended to article 1(5) land and to sites of archaeological interest as defined in article 1(2) of the GPDO. It is not sufficient, without more, to say that these concerns can be dealt with by the use of Article 4 directions. In practice, those powers are not consistently used and, in the context of archaeological concerns, are rarely used.

1.5 One further area which is not specifically (or comprehensively) addressed in the consultation is the impact of development on the setting of heritage assets (including listed buildings and scheduled monuments).

Question 2: (a) Do you agree that Part 8 Class C of Schedule 2 to the GPDO should be amended in order to require all new hard surfaces, including the part or whole replacement of hard surfaces, to either be constructed of porous or permeable materials or to direct run-off to a permeable or porous area within the curtilage of the industrial/warehouse building, except where there is a risk of groundwater contamination?

(b) Should an allowance be made for the partial replacement of hard surfacing? If yes, how large should this allowance be?

2.1 (a) Yes. Any permitted development rights in this regard should also contain adequate safeguards for the historic environment (see above) since hard surfacing can cause significant harm to archaeological remains.

2.2 (b) Only if there are adequate safeguards for the historic environment.

Question 3: Do you agree that the size thresholds for changes of use of B8 floorspace in Part 3 Class B.1 of the GPDO should be increased?

3.1 No comment.

Question 4: If so, is 470m² the correct threshold, or should the increase be larger or more modest?

4.1 No comment.

Question 5: Do you agree with the above proposed amendments to Part 32 of the GPDO?

5.1 Only if there are adequate safeguards for the historic environment (see above for concerns and suggested safeguards and, in particular, paragraph 1.4).

Question 6: Should new PDRs for offices be introduced to the GPDO as detailed above?

6.1 Only if there are adequate safeguards for the historic environment (see above for concerns and suggested safeguards). We note that there is no proposal to introduce permitted development rights to erect freestanding office accommodation and that there is a proviso that the gross floor space of the original building is not to be exceeded by more than 25% or 50sqm, whichever is the lesser. We also welcome the exclusion of permitted development rights within the curtilage of a listed building and on article 1(5) land (save in the latter case for the erection of new refuse storage buildings which is addressed under question 9). However, IfA would wish to see this exclusion extended to sites of archaeological interest as defined in article 1(2) of the GPDO. It is not sufficient, without more, to say that the concerns with regard to the historic environment can be dealt with by the use of Article 4 directions. In practice, those powers are not consistently used and, in the context of archaeological concerns, are rarely used.

Question 7: Should new PDRs for shops and financial/professional services establishments be introduced to the GPDO, as detailed above?

7.1 Only if there are adequate safeguards for the historic environment (see above for concerns and suggested safeguards). We note the proposed limitations and exclusions but would wish to see the exclusion of permitted development rights extended to sites of archaeological interest as defined in article 1(2) of the GPDO. It is not sufficient, without more, to say that the concerns with regard to the historic environment can be dealt with by the use of Article 4 directions. In practice, those powers are not consistently used and, in the context of archaeological concerns, are rarely used.

Question 8: Should new PDRs for trolley stores be introduced to the GPDO, as detailed above?

8.1 Although the development area is likely to be small compared to some other development carried out under permitted development rights, heritage assets are still vulnerable to small-scale development. IfA welcomes the exclusion of permitted development rights within the curtilage of listed buildings and in conservation areas and would like to see this exclusion extended to all article 1(5) land and sites of archaeological interest as defined in article 1(2) of the GPDO.

Question 9: Should new PDRs for the construction of new buildings to store refuse and/or bicycles be introduced to the GPDO, as detailed above?

9.1 Although the development area is likely to be small compared to some other development carried out under permitted development rights, heritage assets are still vulnerable to small-scale development. IfA welcomes the exclusion of permitted development rights within the curtilage of listed buildings and on article 1(5) land and would like to see this exclusion extended to sites of archaeological interest as defined in article 1(2) of the GPDO.

Question 10: What are your views on the above prior approval process?

10.1 IfA supports the use of the prior approval process as a means (amongst other things) to safeguard the historic environment (provided always that there are sufficient resources to allow LPAs effectively to consider applications and the issues which they may raise within given

timescales). With regard to shopfronts and ATMs IfA supports the proposal to retain the need to apply for planning permission on article 1(5) land and on/within the curtilage of listed buildings.

Question 11: Do you agree that World Heritage Sites should have the same level of protection as article 1(5) land for the purpose of the proposals detailed in this consultation document?

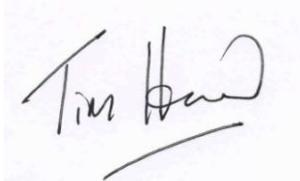
11.1 Yes. IfA would strongly support the amendment of the definition of article 1(5) land to include World Heritage Sites.

Question 12: Are there any other amendments to the GPDO that you would like to suggest?

12.1 There are no specific amendments, but IfA and its Wales / Cymru Group would be happy further to discuss these issues with Welsh Government with a view to facilitating sustainable development which delivers public benefit both economically and culturally.

In the meantime, if there is anything further that I can do to assist please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink that reads "Tim Howard". The signature is written in a cursive style with a horizontal line underneath the name.

Tim Howard LLB, Dip Prof Arch
Policy Advisor