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Proposed Programme for Reviewing and Extending Permitted Development Rights (PDR) in Scotland

consult.gov.scot/local-government-and-communities/reviewing-and-extending-pdr

Spokes is pleased to respond to this consultation. We will in particular comment on sections of...

- A) *PDR Sustainability Appraisal, Full Report*¹ (referred to below as **PDR Report**)
- B) *PDR Proposed Programme*² (referred to below as **PDR Programme**)

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1. Background – Domestic bicycle storage

Our response primarily concerns domestic bicycle storage for properties with a front garden but no back garden, or no convenient access to a back garden. This is the situation for large numbers of people living in terraced or flatted accommodation. At present any householder wishing to install bike storage in a front garden (however small the container or shed – see 4 below) has to apply for planning permission, meaning a fee of over £200 whether or not permission is granted.

It is little wonder that the Scottish Government's target³, announced in 2009, for 10% of trips to be by bike by 2020 has failed so miserably when simple deterrents to bicycle ownership and use, such as this, for individuals and families, have been allowed to remain, despite being raised many times by those affected and by MSPs.

1 https://consult.gov.scot/local-government-and-communities/reviewing-and-extending-pdr/supporting_documents/Sustainability%20Appraisal%20full%20report.pdf

2 <https://consult.gov.scot/local-government-and-communities/reviewing-and-extending-pdr/>

3 <http://www.spokes.org.uk/wp-content/uploads/2009/09/B103all.pdf>

The issue was first brought to our attention (and, as a result, to that of the Scottish Government) years ago through a series of cases where our help was sought by frustrated, disbelieving and upset householders who either had been refused permission or, not having known that permission was required, were told to remove bicycle containers or face action. Several cases involved months of anguish, appeals, and a huge waste of time by council officers and government reporters as well as the householder. Typical comments to Spokes by victims of the rules included...

- *It seems ludicrous that I have chosen to provide my own solution (at significant cost) to bike storage – a noted problem and disincentive to taking up or continuing cycling – and positioned discreetly beneath a mature high hedge – and I am being actively pursued to prevent this.*
- *This has been a really really horrible period for us – and it's not over yet.*
- *We have had a number of bikes stolen from our front garden and have tried a number of methods to keep our bikes safe and finally decided to put up a shed ... The council have now contacted us and are insisting we take the shed down (with a the threat of a £1000 fine if we don't ... We have no car and feel that as a family trying to live without one we should be encouraged to cycle.*

As well as doing our best to assist these householders individually we attempted – to no avail – to get Scottish Government interest in the modest change to permitted development rights which would solve these problems. Our response to the Scottish Government's 2015 *Independent Review of Planning*⁴ was one such early attempt, whilst MSPs also raised the issue.

However we also discussed the matter with Edinburgh Council and, in contrast to the government, they recognised the problems and were keen to find at least a partial local solution until such time as a national solution was provided. Spokes then, in consultation with the Council, prepared a guidance document advising householders what type of application (for example, size of container/shed, screening, etc) was likely to receive planning permission. The document was approved by the Council Planning Committee and is now referenced on the Council website in its Planning Guidance to Householders⁵ [p15]. This guidance document, incidentally, is what the HOPS report refers to as a Spokes 'leaflet,' with no reference to its official status.

Whilst this local solution has greatly eased the problems locally, it still means that householders have to pay over £200 to seek permission even for a small bike container sheltered behind a hedge (in contrast, keeping a couple of SUVs permanently parked on an unscreened driveway does not require a fee or a permission). Furthermore the Council, legally, retains ultimate discretion and so a householder cannot be 100% sure of receiving permission for a container even if it fully complies with the advice document.

2. Background – priority key action?

We must express our great and continuing frustration that what was termed a “**priority key action**” by the Scottish Government back in July 2016 in its response⁶ to the Independent Planning Review has instead progressed through over 3 years to the present day through a series of delays and related consultations. And now we enter a further consultation, and one with little hope of a future timescale appropriate to a priority key action, also with a lack of clarity as to whether domestic bicycle storage will be discussed at all - and, even if it is, this will not be until “from autumn 2020.”

As long ago as early 2017 the Scottish Government, in its *Planning System Consultation*⁷ [para 4.23], saw PDR extension to “*cycle networks, parking and storage*” as helping “*to meet our wider commitment to reducing emissions that cause climate change.*”

4 <http://www.spokes.org.uk/wp-content/uploads/2015/04/Planning-Review-Spokes-sheds-response.pdf>

5 http://www.edinburgh.gov.uk/download/downloads/id/9758/guidance_for_householders.pdf

6 <https://www.gov.scot/binaries/content/documents/govscot/publications/correspondence/2016/07/planning-review-sg-response/documents/review-planning-scottish-government-response-pdf/review-planning-scottish-government-response-pdf/govscot:document/review%20of%20planning%20scottish%20government%20response.pdf>

7 <https://www2.gov.scot/Resource/0051/00512753.pdf>

Our concerns have been expressed repeatedly, both in response to related consultations, and in letters such as this⁸ in January 2018. Furthermore, we are far from satisfied that our concerns have been properly considered. For example, see the discussion in our January 2018 letter of the HOPS paper⁹ on PDR extension, which referred to the above Council-recognised guidance document merely as a Spokes 'leaflet' and which read as if Spokes was proposing that large sheds in front gardens should be granted PDR.

The one perhaps fortunate outcome to these inordinate delays is that we are now in a declared **Climate Emergency**, and therefore policies and actions related to active travel are supposedly to receive a new level of priority. In her statement¹⁰ to Parliament on the Emergency, Climate Change Secretary **Roseanna Cunningham** said...

- *this Scottish Government will be placing climate change at the heart of everything we do*
- *review of Scottish Planning Policy will include considerable focus on how the planning system can support our climate change goals.*

Will the process of and the outcomes of this consultation reflect those commitments? - also bearing in mind that, as the PDR Report itself states [13.1], “*Increasing walking and cycling for transport and leisure is a key policy commitment in Scotland.*”

We turn now to the two relevant sections of the PDR Report...

3. PDR Report, Active Travel chapter [chapter 13, p153-156]

This chapter assesses extending PDR to various measures which will enable bicycle owners and users to cycle more conveniently or more comfortably, for example surfacing and route improvements, and e-bike charging opportunities.

We support these measures, which, as the assessment suggests, should be relatively uncontroversial.

However, significant numbers of people and families living in certain types of accommodation are at present unable even to *own* a bicycle, let alone use it more, and the above measures do little or nothing to address that.

The question of PDR for containers or sheds which can be used to store bikes, for households with no access to a back garden, as in many terraced and /or flatted properties, is mentioned but is then relegated to a general discussion of sheds in chapter 17, *Householder Developments*. In consequence...

- there is no significant discussion in the Report of enabling active travel through easy access to provision of bicycle storage. It is considered irrelevant in chapter 3, Active Travel, on the grounds that it will be considered in chapter 17, but it is then not discussed in chapter 17.
- even if the government does intend to consider bicycle storage issues under chapter 17, this consideration is postponed since, in the PDR Programme, the government proposes to begin looking at Active Travel [chapter 13] issues “from Spring 2020” but not until “from Autumn 2020” for Householder [chapter 17] issues.

8 <http://www.spokes.org.uk/wp-content/uploads/2018/01/1801-to-Chief-Planner-PDR-front-gdn-bike-storage.pdf>

9 <http://www.spokes.org.uk/wp-content/uploads/2013/03/1704-HOPS-Planning-Review-Extension-of-permitted-development-rights.pdf>

10 <https://www.gov.scot/publications/global-climate-emergency-scotlands-response-climate-change-secretary-roseanna-cunninghams-statement/>

4. PDR Report, Householder chapter, Ancillary Buildings section [section 17.8, p191-194]

Enabling bicycle ownership and use for individuals and families is not discussed in this section, which only discusses general visual and amenity issues of ancillary buildings.* Indeed, unlike chapter 13, this entire section omits climate-related issues, regardless of the Cabinet Secretary's commitment to “*considerable focus on how the planning system can support our climate change goals.*”

*There appears to be no clear definition of *ancillary building*, although Circular 1/2012 refers to “any building required for a purpose incidental to the enjoyment of the dwellinghouse.” On the basis of our experience with Edinburgh Council such 'buildings' certainly include containers and small sheds, with no specified lower limit on dimensions. Indeed, given that front garden bike boxes need planning permission, does a fixed dog kennel or even a hedgehog house require planning permission?

5. Recommendations

In conclusion, we urge the following...

- (a) **Domestic bicycle storage to be considered under *Active Travel* rather than *Householder Developments*.** This will increase the probability...
 - that it is discussed at all, rather than being placed between the two stools of Chapter 13 and Section 17.8.
 - that it is assessed and implemented 'from Spring 2020' rather than 'from Autumn 2020'
 - that it is given full consideration as an enabler of active travel rather than solely as an issue of visual amenity.

- (b) **That PDR is granted for front garden sheds and containers which meet specified criteria.** A good starting point in determining the criteria would be those in the guidance document¹¹ which we prepared in consultation with Edinburgh City Council, which was subsequently approved¹² by the Planning Committee and is now referenced in Council Householder Guidance. In particular, this suggests maximum dimensions of 2.5m long x 1.2m deep x 1.5m high. A householder who wished to exceed the criteria would of course still be required to seek planning permission.

Yours sincerely

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for Spokes

11 <http://www.spokes.org.uk/wordpress/wp-content/uploads/2013/03/Cycle-sheds-factsheet-Word97-v12-FINAL.pdf>

12 http://www.spokes.org.uk/wordpress/wp-content/uploads/2013/03/1309-Cttec-report-item_6.2_Cycle_Storage_in_Gardens.pdf