

# Review of permitted development rights - phase 2 consultation

## Response by Living Streets Scotland, August 2022

**Question 1.** Do you agree with the removal of restrictions on Class 9E PDR, for wall-mounted EV charging outlets, in the specified areas currently listed in class 9E (3)? Please explain your answer

Living Streets is concerned that this could result in the loss of pavement areas in private land (e.g., new housing developments). Without regulations some pavements may fall below 1.5 meters clearance the acknowledged minimum for comfortable passage of a wheelchair or blind person being assisted by a guide dog.

We do not believe local authorities have the resources to make or more importantly effectively monitor and enforce Article 4 directions. Nor are the public sufficiently aware to highlight the need for such a direction.

**Question 2.** Should the conditions regarding nameplates be withdrawn for Class 9E on wall-mounted EV charging outlets? Please explain your answer.

No, we believe its important the user / user / principal owner of an EV point can be identified. This allows for issues such as unsecured or hazardous trailing cables to be addressed.

**Question 3.** Do you agree with the removal of current restrictions on Class 9F PDR for EV charging upstands in the specified areas currently listed in Class 9F(3)? Please explain your answer.

No, Living Streets is concerned that this could result in the loss of pavement areas in private land (e.g., new housing developments). Without regulations some pavements may fall below 1.5 meters clearance the acknowledged minimum for comfortable passage of a wheelchair or blind person being assisted by a guide dog.

**Question 4.** Should the conditions regarding nameplates be withdrawn from Class 9F on EV charging upstands? Please explain your answer

No, we believe its important the user / user / principal owner of an EV point can be identified. This allows for issues such as unsecured or hazardous trailing cables to be addressed.

**Question 5.** Do you agree with the proposed increase in height allowable for EV charging upstands under Class 9F PDR from 1.6 metres to 2.5 metres in all off-street parking locations, except within the curtilage of a dwelling? Please explain your answer

No this could further reduce or crowd footways in private developments. This would be acceptable outside the curtilage of a footway or path

**Question 6.** Do you agree with the proposal to introduce PDR for solar canopies and related battery storage and equipment housing for EV charging upstands in off-street parking areas? Please explain your answer

No. This technology is still in development / evolving in terms of design – the implications for street amenity are unclear. This would be acceptable outside the curtilage of a footway or path

**Question 7.** Do you agree with the proposal to introduce PDR for equipment housing for EV charging upstands in off-street areas where solar canopies are not provided? Please explain your answer.

No. This technology is still in development / evolving in terms of design – the implications for street amenity are unclear. This would be acceptable outside the curtilage of a footway or path

**Question 8.** Do you agree with the list of areas within which new PDR for such solar canopies and related battery storage and equipment housing should not apply? Please explain your answer

This list is acceptable should include – the curtilage of a footway or path to reduce encroachment or crowding of public spaces. We note other similar items, e.g., telecoms equipment has substantially reduced the amenity in the public realm.

**Question 9.** Do you agree with the suggested height limit of 4 metres on PDR for solar canopies for EV charging upstands in off-street parking areas? Please explain your answer.

We have no concerns if this out with the curtilage of a path or footway.

**Question 10.** Do you agree with the proposal that any new PDR for solar canopies, battery storage and equipment housing for EV charging upstands in off-street parking areas should not apply within 5 metres of a road and 10 metres of the curtilage of a dwelling? Please explain your answer.

Yes – but this should include reference to a road or ‘footway’ not just a carriageway

**Question 11. Would it be helpful to amend Class 30 PDR for local authorities to make clear they apply to EV charging points and any associated infrastructure? Please explain your answer.**

This requires further thought

Amending Class 30 PDR to include EV charging points would simplify the process and help reach net zero targets. However, placement of equipment has equality impacts that require oversight. Given local authority staffing constraints this may well become a free for all.

**Question 12.** Do local authority PDR need to be amended to take account of emerging models for financing, delivering and operating EV charging infrastructure, and the changing nature of private sector involvement? Please explain your answer

The privatising of public spaces must not result from such a change. The public realm must remain public.

**Question 13. Should PDR for EV charging infrastructure in roads apply to parties other than local authorities? Please explain your answer.**

No. Such rights are routinely abused by organisations such as telecom companies in terms of street clutter. It would be a disaster to give private companies unfettered access to streets within the scope of PDR. Such organisations are in themselves not covered by public sector equalities duties.

**Question 14.** If so, would such PDR for other parties need to be linked to some arrangement with local authorities or other form of authorisation? Please explain your answer.

Such a system will add complexity and is another reason for not going down this route.

**Question 15. What conditions and limitations would need to be placed on any additional PDR for EV charging infrastructure in roads? Please explain your answer.**

The PDR must apply to the 'vehicular carriageway' and not footways to avoid serious and negative equalities implications.

The additional PDR would need to ensure that EV charging infrastructure does not take space, wheel, and cycle, and from active travel infrastructure using the carriageway. We reiterate any electrical charging points should never be located on a normal footway.

PDR changes must not facilitate a situation whereby charging points take space away from people, obstructing pavements. This will undermine transport policies and strategies to reach net zero via encouraging active travel. As framed the proposal appear counterproductive, with significant equalities concerns – affecting people with protected characteristics around age and disability.

We agree with Sustrans that it is equally important to ensure that new EV charging infrastructure does not diminish the opportunities to retrofit the streets with protected cycle lanes. To mitigate that risk, location of new infrastructure must:

- ***Keep the EV charging points to side roads:*** keeping charging points to side roads will allow the possibility to add protected cycle lanes on arterial routes or high streets in the future. These routes are the ones where it is the most likely that physical cycle infrastructure and priority bus corridors will be needed in the future.
- ***Locate the infrastructure in amongst more car dependent activities:*** It's a priority to locate this infrastructure in amongst activities that are already car dependent (such as supermarket car parks, or work car parks where people leave their car for a long amount of time to allow charging) would be more economically viable. EV infrastructure should be avoided in short-stay parking on street as long-term such bays may well need to be removed for other uses (active travel, hospitality etc.

**Question 16.** In relation to extending PDR for EV charging infrastructure in roads, what issues need to be considered regarding existing PDR, and rights to access the roads network, for infrastructure which are available to other sectors, such as electricity undertakers? Please explain your answer.

Electricity undertakers have a very poor record of addressing equalities issues when accessing streets to carry out works. Further opportunities for poorly trained and regulated contractors to access streets, would be highly detrimental to disabled people and pedestrians in general.

**Question 17.** Do you agree in principle with having PDR for changing existing petrol/diesel stations to EV charging only? Please explain your answer.

We have no additional concerns, but note such sites are generally hostile to pedestrians.

**Question 18.** If so, what, if any, further specification of the conditions and limitations identified, or additional ones, would be required for such? Please explain your answer.

Its well established that 1.5m is the absolute minimum need for functional pavements, allowing comfortable disabled access. Whilst 1.2m is often permitted in short sections, the number of pinch points along pedestrian routes could grow greatly.

**Question 30.** Do you agree that important matters such as safety and inclusive access could continue be controlled through other regimes that would continue to apply? Please explain your answer.

EV charging infrastructure will have an important impact on mobility and streetscape. It is important that place making creates walkable neighbourhoods for all.

Our research, and experience from street audits indicates equalities safeguards are largely ineffective in their current form. The situation deteriorated further during the permissive regime during lockdown – this left many people excluded.

While outdoors socialising is an important feature of social life, moveable furniture should not take away space from people to walk, wheel and cycle freely. Similarly, to EV charging infrastructure, local authorities must not facilitate a situation whereby charging points take space away from people, obstructing pavements. Pavement obstruction and street clutter is particularly detrimental to walking and wheeling for disabled people, older people and people pushing buggies and/ or walking with small children.

Ideally, all street furniture should be placed on carriageway parallel to the kerb line, and in line with other street furniture so as not to reduce pavement widths and maintain legibility for people with restricted sight and mobility. Placement on carriageway close to the kerb line would also reduce the potential trip hazards that could arise from trailing cables and other equipment. EV charging points also need to be visually distinguishable from the pavement: they might create a complicated environment for people with sensory impairment.

**Question 31.** Do you agree that new residential development in Scotland's centres should be plan-led rather than consented through new PDR? Please explain your answer.

Yes, its important to consider the changes in streets via the planning system – using the consultation opportunities this creates.

**Question 32.** Are there any other PDR changes which you think could support the regeneration, resilience, and recovery of centres? Please explain your answer

**Question 38.** Do you have any comments on the partial and draft impact assessments undertaken on these draft Phase 2 proposals?

We agree with the statement that:

“There is potential for certain measures under consideration to have negative impacts if taking them forward leads to uncontrolled provision of certain development/ equipment/ structures on or adjacent to pavements. We will seek views on this point – and on the EqIA more generally – through the Phase 2 consultation.

To this requires extensive work with disabled people to determine the true, impacts which are greatly underplayed in this consultation. Such a consultation must be accessible, including the use of non-technical language appropriate to the public.

Any measure to foster the use of EVs (accessibly only to wealthier households) at the expense of people who walk or cycle risks significantly making inequalities worse. The consultation fails to understand this point.

We believe that reference to other forms regulation of streets (Roads (Scotland) Act 1984) are naive given the near absolute failure of most local authorities to monitor street clutter and activities such as roadworks.

**Question 39.** Do you have any suggestions for additional sources of information on the potential impacts of the proposals that could help inform our final assessments?

Living Streets has done extensive work around street clutter which we are happy to share.

**Stuart Hay**

**Director Living Streets Scotland**

**August 2022**