

NEW FOREST NATIONAL PARK AUTHORITY

PLANNING COMMITTEE MEETING – 19 MARCH 2024

NATIONAL PERMITTED DEVELOPMENT RIGHTS CONSULTATION – NPA RESPONSE

Report by: David Illsley, Policy & Conservation Manager

1. Introduction

- 1.1 On 13 February 2024 the Department for Levelling Up, Housing & Communities launched a consultation seeking views on proposed changes to several existing permitted development rights (PDRs) that allow for householder development, building upwards to create new homes, the demolition of certain buildings and rebuild as homes, electric vehicle charge points and air source heat pumps. Further details are available at [Changes to various permitted development rights: consultation - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/changes-to-various-permitted-development-rights) and the consultation runs to 9 April 2024.
- 1.2 The proposed changes to the Town and Country Planning (General Permitted Development) (England) Order 2015 - as amended - cover the following areas:
- Changes to certain permitted development rights which enable householders to improve and enlarge their homes.
 - Changes to the building upwards permitted development rights which enable the upward extension of a range of existing buildings.
 - Changes to the permitted development right which allows for the demolition of certain buildings and rebuild as homes.
 - Changes to the permitted development rights which enable the installation of electrical outlets and upstands for recharging electric vehicles.
 - Changes to the permitted development right for air source heat pumps.
- 1.3 The Government's rationale for the changes is that, "...permitted development rights provide flexibilities and planning freedoms to different users, including householders and businesses. They are an important tool to support growth by providing certainty and removing the time and money needed to submit a planning application."¹
- 1.4 This report summarises the proposals that are most relevant to the New Forest National Park and the statutory planning work of the Authority. The report sets out a series of key points and principles to be included in the Authority's intended consultation response – the final detail of which would be delegated to officers. Officers are also working with colleagues in the other English national park authorities on a joint response that will be submitted to the Government by National Parks England.

2. Summary of the main consultation proposals

- 2.1 The proposed changes to national PDRs are wide ranging and include the following:

¹ [Changes to various permitted development rights: consultation - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/changes-to-various-permitted-development-rights)

PDR	Summary of proposals	Government rationale
Class A – Extensions to dwellings and other permitted alterations	<p>Single-storey rear extensions: Within National Parks these are currently limited to 4 metres deep if a detached house, or 3 metres deep in any other case. It is proposed to increase this to 5m and 4m respectively.</p> <p>Existing permitted development rights require that extensions and other buildings must not exceed 50% of the curtilage of the dwellinghouse. It is proposed to remove this limitation.</p>	<p>To support householders to make the changes they need to meet today’s living demands and maximise the usability of space within their homes.</p>
Class B & C – alterations to the roof (e.g. dormers, velux roof window)	<p>An existing permitted development right allows for some alterations to the roof of a house within a National Park. It is proposed that some of the existing limitations are amended so that they only apply where the alteration takes place on a roof that fronts a highway.</p>	<p>To support householders to make the changes they need to meet today’s living demands and maximise the usability of space within their homes.</p>
Class E – buildings that are incidental to the enjoyment of a house (outbuildings)	<p>Current permitted development rights permit outbuildings in the curtilage of a dwellinghouse in National Parks. In cases where development is situated more than 20 metres from any wall of the dwellinghouse, it is not permitted if the total area of ground covered by development would exceed 10 square metres. It is proposed to remove this limitation. It is noted that this could allow larger structures closer to the property boundary in National Parks.</p>	<p>To support householders to make the changes they need to meet today’s living demands and maximise the usability of space within their homes.</p>
Changes to the permitted development rights for the installation of electrical outlets and upstands for recharging electric vehicles	<p>It is proposed to remove the existing requirements that wall-mounted outlets for EV charging cannot face onto and be within 2 metres of a highway; and that electrical upstands for EV charging cannot be within 2 metres of a highway.</p> <p>It is proposed that the maximum height of electric upstands for EV recharging should be increased from 2.3 metres to 2.7 metres where they would be installed in cases not within the curtilage of a dwellinghouse or a block of flats.</p>	<p>To facilitate the roll-out of electric vehicle charge points and air source heat pumps.</p>
Changes to the permitted development right for air source heat pumps within the curtilage of domestic buildings	<p>It is proposed that the requirement that an air source heat pump must be at least 1 metre from the property boundary should be removed.</p> <p>It is proposed that detached dwellinghouses should be permitted to install a maximum of two air source heat pumps.</p>	<p>To facilitate the roll-out of electric vehicle charge points and air source heat pumps.</p>
Other proposals	<p>Bin and bike stores can be constructed in front gardens of homes in National Parks. Bin and bike stores would be no more than 2 metres in width, 1 metre in depth and 1.5 metres in height.</p>	<p>Houses that only have front gardens or those that have limited external access to their rear gardens are unable to install bin or bike stores in their front gardens</p>

		<p>under the existing permitted development right. This can lead to “bin blight” with wheelie bins dominating front gardens and impacting on the local amenity of residential streets.</p>
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2.3 The consultation includes some commentary on the strengthened legal duty to ‘seek to further’ the two statutory National Park purposes introduced through Section 245 of the Levelling Up & Regeneration Act 2023. In relation to the proposed changes to permitted development rights for outbuildings the consultation states,

‘We recognise that removing this limitation could allow larger structures closer to the property boundary in protected landscapes, including National Parks. This could give rise to visual and amenity impacts in these areas. Section 5(1) of The National Parks and Access to the Countryside Act 1949 sets out the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of National Parks, and promoting opportunities for public understanding and enjoyment of those areas. The Levelling Up and Regeneration Act requires that, in exercising or performing any functions in relation to, or so as to affect, land in any National Park in England, a relevant authority must seek to further the purposes specified in section 5(1) and if it appears that there is a conflict between those purposes, must attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park. As such we are seeking feedback on this amendment before making any change.’

3. Proposed New Forest National Park Authority consultation response

3.1 This consultation on further changes to national permitted development rights continues the trend of the Government seeking to take more development out of the full planning application route. In addition, alongside the current consultation we are awaiting the Government’s final response following the consultations last year on various proposed changes, including new permitted development rights to allow agricultural buildings to change to residential use without planning permission in National Parks (which we and the other English national park authorities strongly objected to).

3.2 This report recommends that the National Park Authority’s consultation response is framed around the following key principles, with the detailed wording delegated to officers to submit by the deadline of 9 April 2024. Although the changes proposed in the current consultation focus on smaller-scale development – and some do support improved energy efficiency – there are some key ‘in principle’ matters to consider.

(i) *Undermining the Plan-led planning system*

3.3 Paragraph 15 of the National Planning Policy Framework (December 2023) states, ‘*The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.*’ Through recent proposed reforms to the planning system the Government has reaffirmed the primacy of the development plan in decision-making. Section 93 of the Levelling Up & Regeneration Act 2023 also amended the relevant sections of the Planning & Compulsory Purchase Act 2004 to

state that the determination of planning applications must be made in accordance with the development plan “...*unless material considerations strongly indicate otherwise*” (our emphasis). This amendment strengthens the role of the statutory development plan in decision-making, while conversely the extension of national permitted development rights takes more development out of the full planning application process (meaning the provisions of the development plan are not engaged).

- 3.4 Local plans are the product of extensive consultation and independent examination of the evidence base, the conformity with national policy and the consideration of representations made by the local community and other relevant stakeholders. The adopted New Forest National Park Local Plan (2019) for example includes locally-specific policies on local distinctiveness (SP17); the size of new dwellings (SP21); the residential character of the Defined Villages (DP34); extensions to dwellings (DP36); and outbuildings (DP37). These policies were supported at examination by the Government’s Planning Inspectorate in 2019 and help to deliver the statutory National Park purposes. Our adopted Local Plan highlights that increasing amounts of small-scale household development can result in a creeping suburbanisation of the National Park, slowly eroding the Forest’s distinctive character. Policy SP17 (Local distinctiveness) seeks to guard against this, but would not be engaged for proposals that fall under the extended national permitted development rights in National Parks.
- 3.5 National planning policy and guidance also places an increased emphasis on high quality design in new development. The Government has published a National Design Guide (2021), and National Model Design Code (2021) and the revised NPPF (December 2023) includes a chapter dedicated to ‘Achieving well-designed and beautiful places’. Paragraph 131 of the Framework states, “...*the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development.*” Locally the adopted [New Forest National Park Design Guide SPD \(2022\)](#) includes detailed design guidance on extensions to dwellings, outbuildings and materials. The extension of national permitted development rights means an increasing amount of development could be undertaken without planning approval and without regard to local design guidance. This is contrary to the Government’s desire to deliver high quality development that reinforces local distinctiveness.

(ii) *Conflicts with national planning policy and guidance on National Parks*

- 3.6 National planning policy for National Parks is set out in the National Planning Policy Framework (NPPF, 2023), the accompanying National Planning Practice Guidance (NPPG) resource, and the National Parks Circular (2010). The extension of national PDRs into National Parks runs contrary to the following sections of national policy:
- National Park status is identified in footnote 7 to paragraph 11 of the NPPF as a designation that protects an area or asset of particular importance; and that therefore the planning balance should be applied differently.
 - Paragraph 182 of the NPPF confirms, ‘...*great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and AONBs which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks...the scale and extent of development within all these designated areas should be limited.*’ Allowing further development in National Parks without

planning permission will cumulatively impact on the landscape of the New Forest and its cultural heritage (which includes its rich build heritage).

- NPPG guidance on ‘Landscape’ states, ‘...*all development in National Parks, the Broads and Areas of Outstanding Beauty will need to be located and designed in a way that reflects their status as landscapes of the highest quality...*’ (our emphasis). The extension of national PDRs into National Parks would not ensure ‘all development’ will be located and designed to reflect its location within a nationally protected landscape, as the full planning application process will not be undertaken and the requirements of the development plan will not be triggered.
- The National Parks Circular (2010) is cross-referenced in the latest versions of the NPPF and the NPPG resource. The Circular is an extant statement of Government policy on National Parks and confirms, “...*the planning system is a key instrument in the achievement of Park purposes. Planning legislation has a major impact on the form and location of development, is a vital tool for managing the impact of development on landscape and biodiversity and a key part of conserving and enhancing cultural heritage, including the built heritage in Park settlements...for these reasons Government has made the NPA’s the sole local planning authorities for their areas.*”² By removing more development in National Parks from the full application route, it reduces the ability of national park authorities to manage the impacts of development on the delivery of the statutory Park purposes.

(iii) *Conflicts with the recommendations of the National Landscapes Review (2019)*

- 3.7 The final report of the Government-commissioned [National Landscapes Review](#) was published in 2019. The review covered a wide range of matters, including biodiversity, natural beauty, planning & housing and the future of farming. The review recognised that the planning system has long played a critical role in protecting National Parks; and that the ability to control and/or influence development that would have an adverse impact on our national landscapes is crucial. Regarding the planning powers of national park authorities, the review concluded, ‘*We think their planning powers are important, the protections they give are essential and we don’t think they hold progress back.*’
- 3.8 With regard to national permitted development rights, the National Landscapes Review concluded, ‘*The current Permitted Development Rights (PDR) system should also be reviewed and, if necessary, further PDRs should be added to the list of those currently withdrawn within national landscapes to ensure that the full application process applies before determining planning approval.*’ The proposals currently out for consultation run completely contrary to this conclusion of the Government-commissioned review.
- 3.9 The [Government’s response to the National Landscape Review](#) was published in January 2022. In this, the Government confirmed that a strong and effective planning system must sustainably balance protections with supporting local communities and economies. ‘*This balancing exercise must be carried out differently in protected landscapes, to ensure their statutory purposes and special qualities are meaningfully protected. This involves giving greater weight to their special qualities in planning policies, procedures, and decisions...we recognise the special role that protected landscapes hold within the planning system.*’ This is correct, but the proposed PDRs that would allow additional small-scale development in National Parks to proceed without the need for an application, consultation with neighbours or approval from the national park authority run contrary to this stated position.

² National Parks Circular (2010) – see [National Parks Circular \(publishing.service.gov.uk\)](#)

(iv) *Conflicts with the statutory duty placed on relevant authorities to seek to further National Park purposes in making decisions that could affect them*

- 3.10 There has been a long-established legal requirement for ‘relevant authorities’ to have regard to the statutory National Park purposes in making decisions that could affect them. This ‘duty of regard’ was strengthened through Section 245 of the Levelling Up & Regeneration Act 2023 to the state that in exercising or performing any functions in relation to, or so as to affect, land in any National Park in England, a relevant authority “*must seek to further the purposes.*” [Extant Government guidance](#) confirms that ‘relevant bodies’ covered by the legal duty include Government departments.
- 3.11 As outlined in paragraph 2.3 of this report, the current Government consultation highlights that some of the proposed changes to national PDRs could give rise to increased visual impacts from development in National Parks and feedback is invited. The new strengthened legal duty to seek to further the two statutory National Park purposes came into effect in December 2023 and only a few months later this consultation is an important test of the difference the new duty means for decision-makers. Given the acknowledgement within the consultation document that some of the proposed changes will have detrimental impacts in National Parks, it is recommended that the Authority’s response strongly highlights these impacts as being contrary to the new duty to seek to further the purposes.

4. Conclusions

- 4.1 The latest consultation on further proposed revisions to national PDRs continues the trend seen in recent years of the Government removing more development from the full planning application process. Although the proposed changes set out in this consultation focus on smaller-scale development than the significant changes proposed last year relating to agricultural buildings, there are still concerns that incremental changes such as this will cumulatively impact on the character of the National Park.
- 4.2 Despite the clear recommendations of the Government-commissioned National Landscapes Review and the recent welcomed strengthening of the legal duty to consider the impacts of decisions on the statutory National Park purposes, this latest consultation proposes a further extension of national permitted development rights in National Parks. This report highlights several areas where this conflicts with the legal and planning framework for National Parks. The main points to be highlighted in the Authority’s consultation are summarised in the following box and we will also be contributing to a joint response on behalf of National Parks England.

Summary of the main points to be raised in the NPA’s consultation response

- Under the recently strengthened provisions of Section 11 of the National Parks & Access to the Countryside Act 1949, the Government has a statutory duty to seek to further the two National Park purposes in its decision making. The proposed extension of national PDRs in National Park would not conserve and enhance the natural beauty, wildlife and cultural heritage of National Parks – the first purpose.
- The proposed changes would fundamentally undermine the ‘Plan-led system’ in National Parks, despite the Government elsewhere supporting the primacy of the development plan in decision-making through the Levelling Up & Regeneration Act 2023. The New Forest National Park Local Plan (2019) includes policies prepared through public consultation and independent examination to guide decisions on extensions to dwellings, outbuildings and other development which could impact

on local distinctiveness and character. Alongside the by-passing of local planning policies, removing such developments from the full planning application route in the National Park will mean local design guidance is not engaged.

- The proposed introduction of more national PDRs in National Parks runs contrary to the recommendations of the Government-commissioned National Landscapes Review (2019). In responding to the review in 2022 the Government stated that the planning balance must be carried out differently in protected landscapes, yet these proposals treat nationally protected landscapes the same as other non-designated landscapes for certain types of development.

Recommendations:

- a) Members note the scope of the Government’s proposed amendments to national Permitted Development Rights that are currently out for consultation; and**
- b) Members delegate authority to the Executive Director (Strategy & Planning) to submit the formal consultation response on behalf of the National Park Authority, framed around the key principles outlined in the box and paragraph 4.2 of this report.**

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Papers:

AM 452/24 – cover paper

Equality Impact Assessment:

The proposed extension of national permitted development rights is not considered to give rise to any impacts on people who share a protected characteristic. Where national permitted development rights do not apply within the National Park the property owner can still apply for planning permission for the proposed development.