

Synopsis of Responses for Consultation on Permitted Development Rights for Agricultural Buildings and Plant

On 2nd November 2012 the Department of the Environment consulted on proposals for amending Part 6 of Schedule 1 to the Planning (General Development) Order (NI) 1993. Part 6 permitted development rights deal with Agricultural Buildings and Operations. The consultation closed on 18th January 2013.

Background

There were two main proposals made:-

- a. Firstly, that the limitation on the size of buildings, works and structures should be increased from the current 300m² to 500m²; subject to relevant limitations and conditions including proximity to principal farm buildings and distances from dwellinghouses not associated with the agricultural unit.
- b. Secondly, that specific permitted development rights be provided for anaerobic digestion plant housing providing that similar relevant limitations and conditions are adhered to including that feedstock is limited to materials generated on the agricultural unit and that the ground area of the plant should not exceed 500m².

Increase in Agricultural Building Size

There were 37 responses to the consultation. Of those who expressed views 20 (62.5%) supported the proposal to increase the size of an agricultural unit from 300m² to 500m², 12(37.5%) were not in support and the remaining 5 acknowledged the consultation but did not hold any particular views in respect of the proposal.

Some respondents raised concerns in relation to landscape amenity, separation distances from neighbouring dwellings and potential to increase environmental nuisance such as odour, noise and pests. Other respondents however did not support these views maintaining for example that a relatively modest increase to 500m² would not be detrimental to the countryside and that no change to separation distance was necessary.

No specific issues have been identified with the current limitations in relation to separation distances or with landscape amenity so extending the area of a farm building by 200m² is unlikely to have any significant adverse effect.

It has always been the policy position of the Department that the first building on an agricultural unit should require planning permission – thus enabling the limitation relating to a “principal group of farm buildings” to apply. Current

Part 6 PD provision could be argued to be ambiguous in this respect and it has been decided to make this explicit in the wording of the legislation.

Having considered the responses both in favour and against the proposal the Department recommends extending the area limitation for agricultural buildings from 300m² to 500m² and retaining the existing limitations and conditions relating to the permitted development rights for agricultural buildings.

Provision of Anaerobic Digestion Plant on Agricultural Units

In relation to anaerobic digestion plant 17 (55%) of the respondents were in favour of the introduction of permitted development rights for the installation of anaerobic digestion plant, 14 (45%) were opposed. 6 respondents did not hold any particular views in this regard.

Comments from those who were in favour of the proposal for anaerobic digestion plant included “welcome any measures which facilitate and enhance renewable energy”, “concerns raised regarding odours in relation to anaerobic digestion are already dealt with under public health legislation” and “limitation should not hinder the on-going untapped and unfulfilled potential of this system with regard to the processing of agric waste”.

Particular concerns however were raised in relation to environmental nuisance in terms of odours, noise, pests and water pollution, possible increase in road traffic, amenity of neighbours in terms of separation distance and health and safety issues relating to control of gas emissions, feasibility of plant if feedstock restricted to only the farm the plant is situated on and the size of AD plant which could be installed under permitted development not being proportionate to the size of the farm.

Given the significance, range and scope of many of the technical issues raised the Department corresponded with officials from the Health and Safety Executive for Northern Ireland (HSENI) and the Department of Agriculture and Rural development (DARD) seeking views on the comments made. Both bodies were very helpful in their responses and this has enabled the Department to address those issues.

The Department has further considered the consultation responses in the context of proposals for permitted development for anaerobic digestion plant, has taken further advice from other bodies and comments as follows:-

Control of gas emissions and public safety

Some consultees raised concerns with what they saw as a public safety hazard to neighbouring dwellinghouses associated with the storage of bio methane gas produced by the Digester plant. The Department on advice from HSENI considers that plant with storage tanks of, for example, around 25 metres in diameter and 5 metres high would have quantities of gas stored that

would not constitute a major hazard. Based on this comparison and the other factors involved in anaerobic digestion, the separation distance of 75 metres from the proposed development is regarded by HSENI as being entirely satisfactory.

Feedstock restricted to that generated on the farm

One of the limitations proposed was that the feedstock used to fuel the AD plant would be derived solely from that generated on the farm. Some respondents have suggested that there would be difficulty in enforcing this limitation. However the Department takes the view that the limitation is there to alert potential developers to their responsibilities in this regard. Should developers fail to comply with the limitation and it is clear from observation that unusual levels of traffic to and from the agricultural unit is taking place the Department has powers to enter land and to require information from the owner or occupier if it believes that there may have been a breach of planning control.

Size of AD plant in the context of the agricultural unit

Some consultees raised concerns over the ability of the Agricultural Unit to produce enough digestate to fuel the Digester and others felt that the Department's area limitation of 500m² would mean that very large AD plant would be allowed. On the other hand some respondents felt that 500m² would not be enough. The Department reviewed a sample of planning applications for AD plant and many were for larger 500kw plant with area footprints which varied but were usually significantly higher than 500m². So while it is difficult to arrive at a direct correlation between area footprint and output capacity the Department feels that an area limit of 500m² strikes a reasonable balance between permitting smaller scale AD development on Agricultural Units and controlling potential adverse impacts resulting from larger scale proposals which could in certain circumstances involve the importation of feedstock on to the site. Stakeholders suggested that it would be useful to have an output capacity limit. The Department has accepted this advice and proposes to introduce a capacity generation limit of 200kw - in addition to the area limitation. The area limitation broadly aligns with that provided in permitted development rights for this type of development in England and Scotland which is 465m².

Environmental nuisance including noise, odour and pests

The main element of an AD system which creates noise is the Combined Heat and Power Unit. These units are designed and built to industry standard specifications and are generally housed in an acoustically shielded room or cabinet. The DARD view is that it is difficult to conceive of noise impact on persons who live more than 75m or more away from the plant. Since feedstock for an on-farm digester (slurry and crops including silage) are not different to materials generally stored in a working farm, it does not appear likely that the installation of such a system would result in an increased number of pests or an increase in the amount of odour-generating material on

the unit. Furthermore, the treatment of slurry in an AD system is likely to reduce the odour associated with these substances when they emerge from the system as digestate.

Possible increase in road traffic and accesses

Some respondents raised concerns about increased road traffic resulting from the need to provide appropriate amounts of the crop element of feedstock to the digester. However, the Department considers that there will naturally be an element of road traffic associated with the farming of grass etc., for “traditional” farming purposes. This includes silage cutting and storing, general cultivation of crops, movement of material for storage as winter animal feed etc. An AD plant utilising feedstock generated within the agricultural unit should not cause a significant increase in the volume of road traffic associated with the farming enterprise.

Potential of threat to the maintenance of good water quality.

Some respondents raised concerns that larger buildings and structures of up to 500m² could be located adjacent to waterways thereby increasing the possibility of pollution incidents. However, there are a range of statutory water quality requirements which sit outside the planning system itself and which deal directly with the issue of water pollution. For example any construction or substantial alteration of silage, slurry or agricultural fuel or oil storage must comply with the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations 2003. As well as design, construction and storage capacity standards, the Regulations require that any new slurry or silage stores are located at least 10m from any waterway. Other controls that may apply include requirements under the Nitrates Action Programme Regulations (NI) 2010, consents to discharge under the Water (Northern Ireland) Order 1994 to deal with site drainage under the construction phase, and appropriate abstraction/impoundments licences issued under the Water Abstraction and Impoundment (Licensing) Regulations (NI) 2006 where excavation of an underground storage structure is proposed and which encounters the water table.

The Department takes the view that, on balance, the limitations proposed, including limiting the scale and generating output of the proposed development, and the provision of proximity constraints to neighbouring dwellings will appropriately manage potential planning impacts and therefore recommends introducing new permitted development rights for anaerobic digestion plant on agricultural units.

A copy of the individual responses may be viewed on the DOE Planning Website at www.planningni.gov.uk