



Finding the Energy

Domestic Microgeneration and Planning

An NLGN White Paper by **James MacGregor**

Summary

This paper argues for more ambitious reforms to the planning regime to encourage a faster and more widespread adoption of domestic microgeneration. It examines Government's current proposals for reforming the planning system to promote domestic microgeneration and the principles on which these reforms are based. It goes on to propose that frontline councillors should direct neighbourhood-level consultation processes aimed at creating local regulations more permissive than national minimum standards. Legislation on local planning flexibility should be amended to reflect this new level of public probity.

Flexibilities alone are not enough; incentives are necessary. To make adoption more likely, local authorities could introduce tax breaks and loan finance for those whom install small-scale generation technology. Central government could give local authorities incentives to promote microgeneration through a cost-neutral performance grant that would reward those whom improve most quickly. The prize is a future where microgeneration plays its full role in tackling climate change.

1 *Introduction*

The planning system is central to the fight against climate change. Government is taking steps to reform the rules and encourage householders to take action to reduce their environmental footprints.

The Department of Communities Local Government (DCLG) recently published a consultation document on loosening regulatory restrictions on domestic microgeneration in England. The proposals would make it easier for householders to install solar panels, wind turbines and other microgeneration equipment on their own houses without needing planning consent, as long as the impact on neighbouring properties was minimal.

The findings of an earlier review underpin Government's current proposals. The Householder Development Consents Review (HDCR)¹ found that the planning system failed to reflect the principle that planning consent would only be needed where the development had a significant impact beyond the property. The report concluded that this situation was not satisfactory. Government is addressing this concern and embedding the principle across the planning regime. DCLG hopes that its plans will balance acceptable impact with protecting '*residential amenity*'.²

This 'impact principle' is at the heart of the Barker Review of land use. For Barker, planning consent would only be needed in cases of '*non-marginal third-party impact*'.³ The recent Planning White Paper re-asserts the need to remove low-impact developments from the planning system.

For domestic microgeneration, a more flexible planning regime could have big effects on attempts to tackle climate change. Research from the Energy

¹ Published in January 2005

² Department for Communities and Local government, *Changes to Permitted Development – Consultation Paper 1: Permitted Development Rights for Householder Microgeneration* (April 2007), p 9

³ Kate Barker, *Barker Review of Land Use Planning Final Report* (December 2006), p 118

Savings Trust shows that domestic microgeneration could provide 30 to 40 per cent of the UK's energy needs by 2050.⁴ Stern supports this finding: for him, microgeneration can be a part of tackling the worst impacts of climate change.⁵

The impending Planning Bill, as well as other non-legislative reforms that Government is making to the planning system, will be vital in deciding for years to come how well the planning regime aids the fight against climate change. As one of the first pieces of reform to the system, the proposed changes to the rules for domestic microgeneration will influence the course of wider reform. Ensuring that new regulations promote as fast and wide a take-up as possible is therefore important.

The first section examines the proposals put forward by Government and the principles on which they are based. The second outlines how more ambitious reforms might help to provoke a more widespread and faster adoption of domestic microgeneration technology.

⁴ Energy Saving Trust, *Potential for Microgeneration: Study and Analysis – Executive Summary* (November 2005)

⁵ Sir Nicholas Stern, *Review Report on the Economics of Climate Change* (October 2006), p 384

2 Lowering Barriers

The proposals to reform the Town and Country Planning (General Permitted Development) Order 1995 (GPDO) are intended to reduce the proportion of domestic microgeneration installations that need planning consent. With these reforms, Government aims to strike an appropriate balance between a wide take-up of domestic microgeneration and the protection of neighbours, the environment and the wider community from negative effects.

The Impact Principle

The January 2005 ODPM Householder Development Consents Review (HDCR) found that the then system for granting planning consent and for deciding what is permitted development was not appropriate. Most importantly, the planning system did not properly distinguish between impactful and impact-free development, tending to focus on the volume of developments rather than their effects. Despite the limited scope of the review, Government now sees these findings as applicable to domestic microgeneration.

Government seeks to define acceptable impact on an England-wide basis by creating quantified thresholds for noise pollution and visual impact. Different thresholds are to be created for different kinds of microgeneration equipment. If a piece of equipment falls below the threshold, it will be considered permitted development. If it falls above, it will require a planning consent.

The England-wide impact thresholds would be defined as follows:⁶

⁶ Department for Communities and Local Government, *Changes to Permitted Development – Consultation Paper 1: Permitted Development Rights for Householder Microgeneration* (April 2007), p 28

Solar on buildings	Permitted for the roof and walls unless it protrudes more than 150 mm above roof plane.
Solar stand alone	Permitted if less than 4 metres height. At least 5 metres to any boundary. Area of array a maximum 9m ² .
Ground source heat pumps	Permitted.
Air source heat pumps	Permitted if – internal noise <30dB, external noise <40dB, “garden” noise <40dB.
Water source heat pumps	Permitted.
Wind turbines on buildings	Permitted if <3m above ridge (including the blade) and diameter of blades <2m. Also internal noise <30dB, external noise <40dB, “garden” noise <40dB. Up to 4 turbines on buildings >15m (as with antennas). Vibration <0.5mm/s.
Wind turbines (stand alone)	Permitted if <11m (including the blade) high and diameter of blades <2m. At least 12m from a boundary. Also internal noise <30dB, external noise <40dB, “garden” noise <40dB. Vibration <0.5mm/s.
Bio Mass	Permitted – Limit of Flue height 1m above ridge.
Combined heat and power	Permitted – Limit of Flue height 1m above ridge.
Hydro	No change.

Exemptions

Despite the commitment to a uniform approach to assessing impact, the proposed changes go on to recommend local variability in the application of the new regulations. The proposals recognise that, *‘the type of development should not only reflect what the development is, but where it is.’*⁷

⁷ Department for Communities and Local Government, *Changes to Permitted Development – Consultation Paper 1: Permitted Development Rights for Householder Microgeneration* (April 2007), p 11

Government suggests that the requirement for planning consent will not be relaxed in Conservation Areas and World Heritage Sites. In these areas, the following thresholds would continue to apply:⁸

Solar on buildings	Permitted as normal, except on principal elevation fronting a highway.
Solar stand alone	Permitted as normal except in front of principal elevation.
Ground source heat pumps	Permitted.
Air source heat pumps	Permitted as normal except on principal elevation fronting a highway.
Water source heat pumps	Permitted.
Wind turbines on buildings	Not Permitted.
Wind turbines (stand alone)	Permitted as normal except in front of principal elevation.
Bio Mass	Flues permitted as normal except on principal elevation fronting a highway.
Combined heat and power	Flues permitted as normal except on principal elevation fronting a highway.
Hydro	No change

Also, specific permission would still be needed to make alterations to listed buildings. National government also plans to issue guidance to householders and local authorities on the implementation of these regulations.

The success of these reforms will have an effect on what happens in the rest of the planning system. The wider reform process is underway, with

⁸ Department for Communities and Local Government, *Changes to Permitted Development – Consultation Paper 1: Permitted Development Rights for Householder Microgeneration* (April 2007), p 28

the consultation attached to the recent Planning White Paper asking how such future regulations for industrial and commercial buildings should be structured.⁹

⁹ Department for Communities and Local Government, *Planning for a Sustainable Future, Consultation* (May 2007), Q 38, p 21

3 *Recommendations for Reform*

A New Role for Neighbourhood Decisions-Making?

A contradiction lies at the heart of Government's proposals. On the one hand, the paper embraces the principle in the earlier review of householder planning regulations, that, 'the national GPDO provides all householders with a level of certainty that should be retained'.¹⁰ However, Conservation Areas and World Heritage Sites would be subject to tighter regulations; small wind turbines, for example, would not count as permitted development in these areas.

The concept of local variation is already embraced in the planning regime. Local Development Orders (LDOs), introduced as an optional part of Local Development Frameworks in 2004, give local planning authorities powers to tailor regulations. The orders allow for an extension of permitted development rights in defined areas, or even the abolition of planning restrictions where appropriate. In the present system, the Secretary of State retains powers of amendment and veto over any LDO.

Government should choose to expand the potential of LDOs and make local variability in regulations a central feature of the planning system. To do this, Whitehall could attempt to work with individual planning authorities to define acceptable impact on a neighbourhood-by-neighbourhood basis, constantly updating definitions and regulations to cater for a fluid landscape. But it would be a huge task.

Instead, frontline councillors, working with citizens, should be empowered to shape LDOs according to local opinion. Constructing a system that adequately caters for local public opinion and ensures that plans are in the public interest would remove the need for the Secretary of State to reserve

¹⁰ Department of Communities and Local Government, *Householder Development Consents Review: Implementation of Recommendations* (May 2007), p 16

veto powers. This approach could lead to a faster and more widespread adoption of domestic microgeneration technology. This would mean that citizens living in Conservation Areas and World Heritage Sites could also be given the level of influence required to relax the barriers to domestic microgeneration where such action was warranted in the judgement of frontline councillors.

Delivering Neighbourhood Variability

Changes to the operation of LDOs would call for legislation in the upcoming Planning Bill. Changes could be as follows:

- Repeal the Secretary of State's powers to amend, veto and revoke LDOs.
- Introduce a new requirement to ensure that any plans were tested against the local public interest in those areas directly affected by new local arrangements.

A new LDO would almost certainly reduce the number of applications that a planning department would have to process by lowering the bar on permitted development. At a time when there is increasing pressure on planners to process quickly applications for planning consent, this would be an added advantage.

Local authorities would be required to demonstrate that neighbourhood plans to widen the terms of permitted development were in the public interest. To do so, local authorities should do the following:

- Charge frontline councillors with the responsibility for new neighbourhood regulations that would define a higher tolerable impact than the national minimum standards set-out in the reformed GPDO.
- Charge frontline councillors with the responsibility for convening neighbourhood forums to test proposed new neighbourhood regulations against local opinion in the affected neighbourhood.

- After the conclusion of the forum, frontline councillors would be responsible for making the subsequent decision on whether to extend permitted development taking into account neighbourhood opinion. The frontline councillor would not be bound by the forum's decision.

This approach would need a mechanism for reviewing neighbourhood arrangements. Local authorities could require that frontline councillors review neighbourhood regulations on an annual basis. A neighbourhood forum convened to review existing neighbourhood regulations should be different to the one to debate possible new regulations. If existing regulations and new proposals are both rejected then the new GPDO standards should apply.

This approach would be in line with Government's aspiration expressed in the recent Local Government White Paper to, '*involve citizens directly in designing, delivering or assessing a service.*'¹¹ Protests by residents about particular installations should be addressed at the neighbourhood level by frontline councillors.

Incentivising Microgeneration

To make microgeneration installations more attractive to local citizens, local authorities could introduce local tax incentives:

- Local authorities could introduce substantial Council Tax rebates for those households that install domestic microgeneration equipment not requiring planning consent.

If local authorities find a rebate approach too onerous, there are alternative incentives: Local authorities could help to make the financial benefits of microgeneration more tangible to householders from the date of installation. The financial benefit of installing photovoltaic solar panels, for example,

¹¹ Department for Communities and Local Government, *Strong and Prosperous Communities: The Local Government White Paper* (October 2006) , p 32

would generally be realised over a number of years. The long-term nature of the investment can dissuade householders from making the necessary capital investment.

- To cater for this, local authorities could introduce loans for householders to pay for micro-generation installations to be repaid over the lifetime of the equipment. Such loans to householders could be a more manageable commitment for local authorities to bear, even if interest free or low interest. Legislation to allow such loan arrangements should be enacted to provide clarity for authorities.

These amendments alone would be unlikely to persuade English local authorities to spontaneously introduce variable planning regulations. Also, Council Tax rebates might undermine a local authority's willingness to pursue new neighbourhood regulations. Government could give a new set of incentives to persuade local authorities to make promoting domestic microgeneration a priority:

- Central government could introduce a performance grant for the local authority allocated on the basis of the amount of sustainable electricity generated per-house through microgeneration in the local authority area:
 - The terms of the performance grant could be varied area-by-area. Grants could be awarded on the basis of rate of improvement rather than absolute levels of sustainable energy generated
 - This microgeneration performance grant should be measured in the new Comprehensive Area Assessment (CAA) regime and funding routed through the second wave of Local Area Agreements (LAA)
 - This performance grant could be designed to be more valuable than the cost of Council Tax rebates where the

local authority reaches and/or exceeds the target negotiated through the LAA

- This performance grant could form a part of the local government grants regime and be cost neutral for central government, where the cost of rewarding successful authorities is offset by a mild penalty for poor performance

4 Conclusion

The reforms to the regulations on the permitted developments for domestic microgeneration presented in the consultation are a demonstration of Government's renewed commitment to planning playing its part in building a sustainable energy infrastructure. Lowering the barriers to householders installing wind turbines, solar panels and similar equipment will go some way to realising the potential of microgeneration.

Central government could choose to try and cater for all kinds of variation in new regulations, but attempting this could turn into a never-ending task. Instead, Government could create a new system that would encourage local authorities to make the best use of diversity to create a new system from the bottom-up.

In a new system, the GPDO should be reformed as outlined in the consultation. This would set England-wide standards for permitted development for household microgeneration. Changes to the rules on LDOs would then further empower local authorities to allow more permitted development in certain areas without needing tacit permission from the Secretary of State.

In this new system, local authorities would be required to demonstrate that LDO plans were in the public interest. This would require neighbourhood level consultation and debate, giving citizens a powerful voice. Frontline councillors would be at the heart of this process, supported by local officers. Listening to the voices of local people in this way would ensure that '*residential amenity*' was protected as defined by residents. Council tax rebates and capital loans for householders that install domestic microgeneration equipment would incentivise local people to engage in the process.

Despite the potential strengths of such a system, it is unlikely that all local authorities would spontaneously take advantage of new flexibilities. Central

government should introduce a cost neutral performance grant that would raise the issue up councils' priority lists while at the same time compensating councils for lowering their tax bases. CAAs and LAAs would be essential in measuring progress and allocating funding.

This system would empower local citizens and frontline representatives to take ownership of the impact of domestic microgeneration in their neighbourhoods. For the whole of the state, the prize is a sustainable future where domestic microgeneration plays its full role.

Useful Links

[http://www.communities.gov.uk/pub/669/
PlanningforaSustainableFutureWhitePaper_id1510669.pdf](http://www.communities.gov.uk/pub/669/PlanningforaSustainableFutureWhitePaper_id1510669.pdf)

[http://www.communities.gov.uk/pub/367/ChangestoPermittedDevelopment
ConsultationPaper1PermittedDevelopmentRightsforHoun_id1509367.pdf](http://www.communities.gov.uk/pub/367/ChangestoPermittedDevelopmentConsultationPaper1PermittedDevelopmentRightsforHoun_id1509367.pdf)

http://www.hm-treasury.gov.uk/media/4EB/AF/barker_finalreport051206.pdf

Documents for Review

Department of Communities and Local Government, *Planning for a Sustainable Future: White Paper* (May 2007)

Department of Communities and Local Government, *Changes to Permitted Development, Consultation Paper 1: Permitted Development Rights for Householder Microgeneration* (April 2007)

Kate Barker, *Barker Review of Land Use Planning, Final Report – Recommendations* (December 2006)

