

GENERAL PERMITTED DEVELOPMENT ORDER 1995

A CPRE response to the DCLG consultation

October 2006

Introduction

1. CPRE welcomes the opportunity to comment on proposed changes to the *Town & Country Planning (General Permitted Development) Order 1995* (GPDO). Through the experience of our network of branches and district groups, we are keenly aware of the impact of the workings of the GPDO on the countryside.

2. We have enclosed a covering letter and note with this response giving further views on the issue of subdivision of land, and the 3 documents should be read in conjunction. In particular, the central issue that the proposals seeks to address – the subdivision of greenfield land with fences and stakes – may be passing, while the more serious environmental consequences of subdivision of title remain unaddressed. Most of this response is concerned with the proposed regulatory change to, and the accompanying policy on, the serving of Article 4 Directions. We also give brief comments on the proposed regulatory change on the demolition of sports facilities at the end of this response.

Article 4 Directions – regulations and policy

3. In the past five years there has been significant growth in companies buying greenfield land at agricultural use value, subdividing it into plots with stakes and fences, and then marketing it to individuals at inflated prices, as if it had potential for being granted planning permission for new (usually housing) development. Gladwish and Property Spy are the best known examples of such companies. In our campaigning on the Planning & Compulsory Purchase Bill in 2003, we called for stronger planning powers to be introduced to deal with the harmful visual side-effects of this subdivision on the countryside. CPRE's Green Belt campaign in 2005 also included this activity as an example of the threats to designated Green Belt land.

4. In terms of addressing the issue of these landbanking companies, we believe that the use of Article 4 Directions is currently handicapped in three respects:

- Directions cannot be used retrospectively, on development that has already taken place;
- current Government guidance on the use of Article 4 powers is inadequate and unhelpful where it exists; and
- such Directions currently usually require confirmation by the Secretary of State.

5. CPRE supports the draft new regulations and policy circular insofar as they address the second and third of these points. We strongly welcome the clear encouragement to use Article 4 Directions against subdivision of greenfield land with fences and stakes (consultation paper, paragraphs 70-72).

6. We are concerned, however, that there remain too many bureaucratic hurdles for local planning authorities to tackle in relation to the service of Article 4 Directions. It is proposed to allow Directions to be served under Article 5 (4) that can take effect, in cases involving the subdivision of land, without the need for approval in advance by the Secretary of State, but only for a period of six months. Copies of the proposed Direction still have to be sent to the Government Office in the respective region, and there is scope for the Direction to be disallowed at any point within the six month period. The legislation also seeks to prevent Article 5 (4) directions from being used successively. Such an approach ignores the real pressures placed on local planning authorities in areas favoured by landbanking companies. In upholding an enforcement notice served in Chiltern Borough in Buckinghamshire, a Planning Inspector pointed out that, in Chiltern Borough alone, 24 Article 4 Directions had been confirmed by the Secretary of State in recent years (Appeal reference letter

APP/X0415/C/04/1145703, dated 1 July 2005, paragraph 47), with all the bureaucracy associated with approvals that entailed.

7. We are also particularly disturbed that the Government proposes no changes to the serving of Article 4 Directions in relation to telecommunications development. In a 2004 campaign, CPRE highlighted a number of cases where Network Rail proposed to erect 30 metre high masts in Areas of Outstanding Natural Beauty and in the setting of Grade I listed buildings, and local planning authorities were required to serve Article 4 Directions. More recently, evidence has continued to come to light of code system operators abusing the already extensive privileges afforded them by the GPDO, particularly Class A, Section A relating to emergency development. In another example, twenty five enforcement notices were served by local planning authorities on Vodafone during 2004 and 2005 as a result of, amongst other issues, development that had remained in place beyond the six month period authorised under the GPDO for emergency development (Vodafone Corporate Responsibility Report 2004/05).

8. Greater freedoms for local planning authorities to serve Article 4 Directions would, we believe, help ensure that telecommunications systems operators respected the rules of the planning system and took more care to ensure that their proposals were acceptable in affected communities, and to thereby reduce the regulatory burden on local planning authorities. CPRE recommends that, in cases involving development under Part 2 of Schedule 2 of the GPDO (involving the subdivision of land with stakes and fences), and Part 17 and 24 (development by telecommunications systems operators) the requirement for Secretary of State approval of Article 4 Directions is removed outright.

9. Subject to our comments above, we welcome the proposals to similarly remove the need for Secretary of State approval in advance for Article 5 (4) Directions in cases involving a wide range of other permitted development rights. These include development within the curtilage of a dwelling house, temporary buildings and uses such as car boot sales and motorcross events, and a wide range of agricultural and forestry buildings and operations.

10. CPRE strongly welcomes the statement in paragraph 65 of the consultation paper that '*directions bringing agricultural and forestry development under full planning control may be justified if there is a specific and serious threat to amenity*'. We have long advocated the extension for planning control over all agricultural and forestry activities, for reasons set out in the enclosed 1990 report *Planning Control over Farmland*.

11. Part of the problem is that considerable areas of countryside across England have already been disfigured by development of fences and stakes by landbanking companies that has already taken place. CPRE recommends that the final guidance includes a presumption in favour of approving the service of discontinuance notices (under Section 102 of the *Town & Country Planning Act 1990*) in cases where fences and posts are erected under the GPDO before the local planning authority is able to serve an Article 4 Direction.

Demolition of sports buildings

12. We note that the proposal to remove permitted development rights for demolition in cases relating to sports buildings was first consulted on in 2000. At that time, CPRE welcomed such a change. We remain of that position and, as also expressed then, we believe that the Government needs to see this as a first step to introducing much wider powers over demolition. We are concerned that there has been such a delay in implementing these proposed changes and urge the Government to bring them into effect as soon as possible.

CPRE
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