



SACS
UK-WIDE SHOOTING
& COUNTRY SPORTS
ADVOCACY

Development Management Team (PDR Review)
Planning and Architecture Division
Scottish Government
Area 2F South
Victoria Quay
Edinburgh
EH6 6QQ

22 August 2023

Dear Sir.

**Permitted Development Rights Review Consultation
Other Phase 3 Proposals: Temporary Use of Land (Shooting Ranges)
Question 30**

The Scottish Association for Country Sports

I refer to your request for views on potentially amending Class 15 of the General Permitted Development (Scotland) Order 1992 (GPDO) to exclude the use of land as a temporary shooting range comprising fixed targets associated with firearms from existing permitted development rights (PDR) and specifically to Question 30, namely;

Do you have any comments on the potential exclusion of the use of land as a target shooting range from class 15 PDR? If such a change were taken forward, do you have views on the potential justification for exempting the activities discussed in paragraphs 6.2.4 and 6.2.5?

The Scottish Association for Country Sports (SACS) is a significant membership organisation, representing members throughout Scotland the wider UK in respect of matters including field sports, firearms use and related matters. We welcome the opportunity to respond to this consultation exercise.

Background to the Consultation

Before responding to the specific questions laid out in the under paragraph 6.2.7 of consultation, we note that this consultation was stimulated by correspondence between Emma Harper, MSP and the then Minister for Public Finance, Planning and Community Wealth, Tom Arthur, MSP during July 2021 in respect of two shooting ranges in the Borders area of Scotland.

We are aware that within that initial correspondence, information relating to specific firearms usage was given by Emma Harper, MSP that appears to have been inaccurate, and if it had indeed been accurate, it would have been illegal and necessitated police investigation. We are also aware that on 8 April 2022, Emma Harper MSP corresponded with the Minister to the effect that she had made enquiry with Police Scotland in respect of the operation of the ranges and Police Scotland had informed her that the ranges were in actual fact “operating within the law”.

We are also aware that in respect of the matters raised with the Minister, and in spite of the claim by Emma Harper, MSP that they were “operating under a 28 day licence” (i.e. Class 15 of the GPDO), the relevant planning authority has determined that permitted development rights did not in actual fact apply to most or all of the activities and have taken appropriate action. We understand that these issues appear to have been resolved or are in the process of being resolved by the planning authority through the planning process, using powers already available to them under existing planning legislation.

We are obviously and understandably concerned that this consultation has its genesis in inaccurate reporting by an elected official to a Scottish Minister. We are also somewhat surprised that a localised issue, that has evidentially been thoroughly investigated over the course of two years and is in the process of being regularised using existing planning powers, should result in a formal consultation on Scotland-wide changes to legislation that a) would appear to be working entirely satisfactorily, and b) has already enabled appropriate action to be taken with regard to any material planning breaches on the land in question.

Notwithstanding the foregoing, we offer the following in respect of the consultation. The consultation sets out clearly the legislative background and the matter to be reviewed. The consultation only asks about ranges, used for less than 28 days per calendar year and using ‘fixed targets associated with the use of firearms’, and that is principally what our response relates to, although where background information or other commentary may add clarity or context, we have included it in order to inform the process. We have numbered the paragraphs for ease of reference.

Justification for Legislative Change

1. Firstly, we would question whether the proposal to change Class 15 of the GPDO in respect of this matter is necessary, proportionate or reasonable in any respect at all. We are not aware that occasional fixed target shooting is any more problematic than myriad other temporary land uses that occur in Scotland every day of the year without issue; indeed, most occasional shooting activities are likely to go completely unnoticed by the general public.
2. We are also confident that as temporary land use activities go, the potential for noise and amenity, pollution, roads and servicing impacts stemming from fixed target shooting are considerably lower than for activities such as fun fairs and carnivals, music festivals, rural sporting events and trials etc., which operate under the same clause and are more regularly the subject of complaints and amenity concerns, yet have not been put forward for potential restrictions.
3. Why the inconsistency and what justification exists for singling out but one aspect of shooting sports while ignoring so many other uses?
4. While the consultation document notes at 6.2.2 that “*concerns have been expressed about the potential disruption and amenity impacts that such uses can have, particularly in respect of noise*”, those issues are often very subjective, influenced by personal feelings and perspectives and localised. It is disappointing that no quantitative data or detail accompanies the consultation documentation to provide an objective Scotland-wide picture.

5. It would be of interest to note how many complaints have been made to Scotland's planning authorities in recent years over the use of firearms on land used for less than 28 days and how many of those related to the use of fixed targets. This would allow for informed discussion and objective decisions to be made, supported by a solid evidential base, which is the foundation of all good law.
6. In the absence of this data, we sought advice from professionals with local authority planning and firearms experience and asked them specifically about the intersection between planning and firearms law. We have been informed that it is exceedingly rare for shooting sports to be the subject of planning enforcement complaints generally and those relating to 'occasional fixed target shooting' are an even rarer subsection.
7. As there would appear to be no evidence of any common or material issue relating to the temporary use of land for fixed target shooting, it follows that there is no material necessity in changing the law as it currently stands. In the absence of any significant evidence and with no supporting data having been presented, the default position must be that no change to the GPDO is justifiable and no change should be made.

Role & Importance of Shooting Activities in Scotland

8. In order to provide some background, there are in excess of 75,000 people in Scotland who use and have access to firearms, including shotguns, firearms such as rifles and airguns, all of whom will hold a certificate of some kind and have been carefully vetted as part of that process. Activities involving firearms, be it game shooting, stalking or target shooting, contribute significantly to the economic welfare and sustainability of rural communities throughout Scotland, both directly and indirectly through the provision of ancillary services such as hospitality, tourism, ecotourism, retail, food provision and export, research and many other areas of concern. They are critical to employment, land management and recreation.
9. Fixed target shooting is a popular and growing sport in Scotland and our rural areas provide an ideal location to undertake such activities without any significant impact on other interests. In the sporting world, target shooting is one of very few activities that is truly accessible to all and is popular amongst disabled participants for that very reason. It is a sport where all participants - male and female, young and old - can compete on an almost level playing field that requires skill, focus, dedication and practice. It is overwhelmingly positive.
10. The qualities and opportunities that Scotland offers for shooting sports are such that not only do people travel from all four corners of the UK to experience what we have to offer and compete here, we have global reach as well and attract participants from all over the world. Target shooting activities can range from half-day Scout or cadet groups holding airgun events to Home Nation and international full-bore competitions, all of which are likely to operate under permitted development rights and would be severely impacted upon by any restrictions to the GPDO. Waiting periods, delays and, crucially, the significant costs associated with planning applications are likely to sink most smaller events, many of which are managed by volunteers on a 'not for profit' basis.
11. We are also aware some of our members also take part in practical shooting, a discipline with Olympic Observer Status that involves shooting at fixed targets (normally within a relatively confined area, such as an old quarry or forestry land). We are aware that the sport's governing body in the UK – the United Kingdom Practical Shooting Association - are best placed to respond to this consultation from their members' perspective, however notwithstanding that, we believe that the proposals in this consultation pose a very significant risk to that sport and would impact negatively upon those lawful activities. Again, they could become victim of individual interpretation and political drive, despite the activity being a lawful, safe, tightly regulated and long-standing internationally-recognised target shooting sport that has gone on for decades without complaint.

12. Fixed targets do not, of course, feature solely in recreational or competitive target shooting. In respect of the provision of stalking and land management, there are many hundreds of fixed targets throughout the rural community where those employed in the control of deer or other species practice or zero their rifles prior to culling deer or pests. Similarly, guests of sporting estates practice and zero rifles prior to stalking deer, not least to ensure humane dispatch and ensure accuracy of shot placement, both of which are crucial considerations. The potential for GPDO changes to adversely impact on these interests is of particular concern to SACS.

Intersection of the Planning System & Shooting Activities

13. In some cases it is likely that what the consultation describes as 'ranges with fixed targets' will feature an informal shooting position and a steel target 100 or more metres away and natural backstop, while others may have more permanence, with a collection of targets and mounded backstop. Some may be used for more than 28 days per year, but in many other cases they may be established for temporary period or may move around a variety of locations on a land holding. The nature of their use and their composition will vary to suit conditions and context.
14. We understand that under existing legislation, those situations where target shooting activity exceeds 28 days in any one calendar year, or where there is a level of permanence involved in associated infrastructure, and where it is also determined that 'development' has taken place, would in most cases be viewed as *de minimus*. Meanwhile, those situations that are in every way temporary and occasional, and therefore fall within Class 15 of the GPDO, would benefit from permitted development rights. This is a simple and straightforward framework that has stood the test of time. It is easy to understand and follow, land managers know where they stand, as do local communities and the general public, and the process is straightforward for planning authorities to administer.
15. Were the GPDO to be amended so that 'fixed target shooting' activities were explicitly excluded from the scope of Class 15, all such activities would then, if they constituted development, either be subject to an application for planning permission (or enforcement action where permission is not in place) or be classed as *de minimus*. We are, however, aware that the definition of *de minimus* is moveable, imprecise and not defined in planning law, and is subject to being viewed subjectively rather than objectively. This is of significant concern and introduces significant uncertainty into the process, not least when paired with the perpetual 'fact and degree' challenge where the materiality of many 'change of use' cases is concerned.
16. We are also aware that both individual interpretation and political stimulus can influence the definition of *de minimus* and given the potential for this interpretation to be varied throughout the 32 unitary authorities (and two national parks), we would be concerned about the potential of a patchwork of post code lotteries appearing in this area of planning. The possibility of an anti-shooting agenda leveraging any change to the planning process that is vulnerable to interpretation is real and this would negatively affect the responsible and overwhelming positive lawful use of firearms to the detriment of those individuals and businesses who rely on them; however, it would also provide little in the way of certainty, clarity or consistency for the general public either.
17. With further regard to the scope of any changes to the GPDO, the consultation document at paragraph 6.2.3 states that "*In considering such an amendment, our intention would not be to remove PDR for temporary activities that do not involve fixed targets, such as game shooting, clay pigeon shooting or paintball*". While the removal of any of those activities from Class 15 of the GPDO would be disastrous for their respective industries and rural Scotland more generally and we welcome the government's commitment to exclude those activities from any changes, this commitment does lay bare the inconsistencies and apparent double

standards at the heart of this consultation and against that backdrop we can only conclude that it makes little sense at all for occasional fixed target activities to be specifically excluded.

18. This odd juxtaposition is even starker, and certainly more challenging, when you consider the intention to exclude shooting activities featuring shotguns from a consultation that we are told is principally concerned with noise and amenity impacts. In most cases, shotguns produce a louder report than a rifle and due to their reduced range they are often used somewhat closer to built-up areas or population, yet despite this reality, to the best of our knowledge they are still rarely the subject of complaints in Scotland's planning system. It is also perhaps worth mentioning that the rifles used for stalking and increasingly for recreational target shooting as well are more often than not sound moderated, further reducing their potential for noise pollution.
19. Given the complexities of firearms laws and the very common cross-over of disciplines and use case scenarios, it is difficult to see how, in practical planning terms, you could separate occasional fixed target shooting for land management practice from fixed target shooting for recreational practice, nor how you could reasonably justify that one is acceptable under PDR while the other is not, despite their impacts being largely the same. Similarly, if the mooted GPDO changes did go ahead, they could in theory mean that a clay ground that wished to host a small-bore rifle target match twice a year may have to apply for planning permission, while a target shooting club that wished to host a clay competition twice a year could do so under permitted development rights. It is impossible to see the sense in such a framework.

The Meaning of Development

20. We are aware that the definition of development, while defined in Section 26 of the Town and Country Planning (Scotland) 1997, can and is open to some interpretation, particularly where the use of land is concerned as opposed to the physical carrying out of building, engineering or other similar operations, and interpretation can vary between individual planning officers, committees and planning authorities. With the use of land being the principal issue for Class 15 temporary uses and fixed target shooting activities, this will again lead to a patchwork quilt of inconsistency affecting firearms use throughout Scotland.
21. Such a patchwork of inconsistency was successfully resolved by the Police Service of Scotland on the amalgamation of the eight legacy forces and their individual interpretation of the 1968 Firearms Act and has been recognised at a UK level as being an example of best practice and effective working. We rightly and justifiably fear the potential for confusion and inconsistency should the proposed changes to the planning framework progress beyond this consultation. We believe these alone are strong reasons to not change the current planning process.
22. The use of land for shooting activities can constitute development in certain circumstances, but it is by no means clear cut; it does not relate to every type of shooting activity nor every piece of ancillary infrastructure. Firearms law itself is also extremely complex and should the two be married together yet further – particularly for scenarios involving very occasional use – the resultant regulatory framework will almost certainly be complex and confusing, for both local authority planners and the public alike.
23. We are concerned that there will be significant scope for enforcement complaints to get bogged down in a debate over what does or does not require express planning permission and what is or is not enforceable. This uncertainty will not serve the shooting community or the general public well. Much of the complexity and confusion is likely to stem from what aspects of shooting or associated infrastructure falls within the meaning of development, and where it is 'development', what category of use applies and what other GPDO exemptions may or may not be applicable.

24. Presently, while the regulatory backdrops are not necessarily as straightforward as they could be, the GPDO itself provides absolute clarity for temporary uses: if a shooting-related activity has only taken place on land for less than 28 days in any one calendar year, and any structures related to it are temporary, no planning application is required. That covers the vast majority of temporary uses. Everyone knows where they stand and planners need not get bogged down in assessing the nuances of the shooting activities or the land, unless the 28-day threshold is breached.
25. If fixed target shooting was removed from the scope of Class 15, every time a complaint was received, the planning authority would have to undertake significant investigations and expend significant resource establishing, amongst other things i) the type and nature of the shooting activities, ii) the existing use of the land, iii) whether the shooting was ancillary to any existing use or constituted a material change of use or was de minimus, and iv) whether any other permitted development rights applied to some or all of the activities.
26. This process could take a significant amount of time and be entirely disproportionate to the very occasional use of a piece of land for temporary fixed target shooting.

Working to Reduce Regulatory Burdens

27. We are aware that the general ethos and trajectory of planning reform in Scotland over the past 20 years or thereby has been to reduce the bureaucratic burden on developers, communities and local authorities alike and instil more clarity, certainty and trust into the planning system. We wholeheartedly support that objective. If we consider other amendments made to the GPDO since the first significant revisions began coming online in the late 2000s, almost every amending order has represented the addition of new, often expansive, PDR to make the process more streamlined and permissive.
28. In almost every other aspect of this consultation, the expansion of permitted development rights is the key objective, with PDR relating to fixed target shooting being at clear odds with that direction of flow and the only class lined up for a significant contraction of rights. Notable elsewhere in the consultation document is the government's commitment to changes that are considered to be "in the interests of providing greater certainty", to "introduce a more flexible approach" and, broadly speaking, to make the planning system more efficient, effective and supportive of development.
29. Given the clear potential for added complexity, confusion, cost and administrative burden that would without doubt follow if occasional fixed target shooting was omitted from Class 15, and for little to no apparent planning gain, we are of the firm belief that the government's clear commitment in the rest of the consultation document to reducing red tape, facilitating positive development and balancing PDR so that they are fair, balanced, proportionate and justified should be afforded to Class 15 and occasional fixed target shooting activities as well.

Avoidance of Dual Regulation

30. While the use of land does of course often constitute development, and thus the use of land for shooting can be a material planning matter as mentioned above, a guiding principle of planning reform and improvement in Scotland has long been to avoid 'dual regulation' and ensure best value for Scotland's communities and taxpayers. It is against that backdrop that we strongly question the need to amend the law to address temporary fixed target shooting and whether this specific issue has enough relevance to planning to make such a significant change to fundamental and well-established principles set down over three decades ago.

31. The main legislative instrument for overseeing firearms use in Scotland is the Firearms Act 1968, along with subsequent acts and orders, including the Air Weapons and Licensing (Scotland) Act 2015. Together, the 'firearms acts' provide a framework that is routinely described as being one of the most robust and effective in the world; this framework underpins the extremely low firearms crime figures and a firearms community who are already tightly regulated, safe, respectful and overwhelmingly responsible.
32. The firearms acts determine who is allowed to possess firearms and the specific circumstances relating thereto. They can also assess land for suitability, with amenity issues being a consideration alongside safety, and permits can be issued for specific events or activities. Explosives and hazardous materials, which can have a relationship with firearms use depending on the firearms in question, are also governed by their respective legislation.
33. The Environmental Protection Act 1990 gives responsibility for statutory noise nuisance to local authority Environmental Health, SEPA and local authorities have power to act on pollution and contaminated land, the Roads (Scotland) Act 1984 sets out powers that the Roads Authority can exercise relating to certain impacts on the safety and free flow of traffic on public roads and the Health & Safety Executive issues guidance on the safe use of guns and, under UK REACH, is involved in the regulation of lead ammunition in the environment.
34. It is clear that firearms use and ownership is already one of the most tightly regulated and managed areas of civilian activity in the UK, with various authorities and agencies already tasked with the oversight of all of the key considerations, ranging from public safety to amenity to environmental impacts.
35. The planning system does also have an existing role where the permanent, long-term use of land for fixed shooting facilities is concerned, however with so much existing regulation covering all of the key concerns, not least noise impact and public safety, there is no justification or reasonable case to be made for introducing a new legislative burden for the occasional use of land relating to only one aspect of firearms use. Such a move would undoubtedly represent unnecessary dual regulation in general terms.
36. More specifically, however, and with particular regard to the second half of Question 30 (namely: "*Do you have views on the potential justification for exempting the activities discussed in paragraphs 6.2.4 and 6.2.5?*"), were changes to introduced to Class 15 then we are unquestionably of the view that any activities or events authorised under the firearms acts must be exempt from the need to apply for planning permission. A failure to do so would introduce a clear overlap of regulatory responsibility.
37. Any outcome other than that would represent an overturning of the will of both the Westminster and Scottish Parliaments, who would each have considered the implications of those activities in allowing them to occur without the need for separate authorisation. The effect of removing these scenarios from the scope of Class 15 would in practice mean that authorisation was in actual fact required, namely a planning authorisation, which we reject fully.

Challenges for Enforcement

38. Enforceability is of utmost importance in development management, whether it is being considered during the imposition of a condition on a planning permission or the introduction, removal or restriction of a permitted development rights.

39. When it comes to the temporary use of land for occasional fixed target shooting, there is so much complexity and uncertainty around what elements are or are not development, or may or may not constitute a material change of use, there is a very real risk that if the GPDO was amended as suggested, planning authorities would end up bogged down trying to regularise an activity that only occurs a handful of times every year, the impact of which is short-lived and very localised.
40. Planning officers and elected members would also be pulled into firearms legislation, terminology, technicalities and processes that most would most probably know very little about. The process would be resource-intensive with little certainty of outcome and cannot be considered commensurate with what would in reality be the very occasional use of land for a temporary activity already restricted in law to no more than 28 days per year.
41. Trying to determine whether planning permission was or was not required would include consideration of what was being shot at, what firearm(s) was used to do the shooting, who was doing the shooting and for what purpose, more likely than not by planners without any experience of firearms. It is very much a possibility that different types of shooting may take place on the same land – sporting clays and fixed target rifle, for example – one of which may benefit from permitted development rights, but the other would not.
42. A ‘fact and degree’ decision would then have to be made as to the overall use of the land and whether a particular issue represented a breach of control, in part or whole, or whether a matter was *de minimus* or outwith the public interest clause. The resultant picture is a recipe for confusion with significant questions arising as to what would or would not be enforceable on the site, often hinging on whether the balance of probability was that a majority of the shooting used rifles not shotguns or that the targets were fixed to a post or mound of earth rather than being spun into the air.

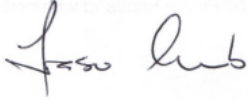
Conclusions

43. In conclusion, we are not supportive of the Scottish Government’s Phase 3 proposals for Class 15 of the GPDO which would, if enacted, exclude the use of land as a temporary shooting range comprising fixed targets associated with firearms, and we object to any such changes in the strongest possible terms.
44. We have seen no evidence to suggest that there are any significant development management concerns stemming from the occasional and temporary use of land for target shooting activities, and on the very rare occasion that issues have arisen, they have been resolved under the existing planning framework. We are also unaware of any substantial or sustained public demand for changes to be made.
45. We consider that any contraction of rights under Class 15 would have a serious and detrimental impact on a wide range of lawful shooting activities (well beyond those that have been mentioned in the consultation documentation), they would place an unfair, unreasonable, unjustified and costly burden on target shooting clubs, enthusiasts and businesses, as well as land managers and country sports providers.
46. There are no circumstances, no material considerations and no objective body of evidence that justify the significant damage that such changes would undoubtedly cause to shooting sports and activities, and we consider the proposals to be entirely disproportionate the low key and often imperceptible impact of temporary target shooting activities on the ground.

Thank you for providing us with an opportunity to contribute to this consultation process. If you require clarification on any of the above or require anything further from us, please do not hesitate to make contact using the details provided.

Yours faithfully...

Signature of the person who has authorised this document to be sent to you

A handwritten signature in black ink, appearing to read "John Lub".

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