

Royal Institute of British Architects

Housing, Communities and Local Government Committee

New inquiry: Permitted development rights

April 2021

The Royal Institute of British Architects is a global professional membership body driving excellence in architecture. We serve our members and society in order to deliver better buildings and places, stronger communities and a sustainable environment. Being inclusive, ethical, environmentally aware and collaborative underpins all that we do.

The RIBA welcomes the opportunity to respond to the inquiry. We are committed to assisting the Government in reforming the planning system into one that the country so desperately needs.

In April 2021, the HCLG Committee launched a new inquiry to examine the Government's approach to permitted development rights. The inquiry will examine the impact that an expansion of the PDR system has had, and will continue to have, on the planning system and the Government's targets for new homes and economic growth.

To promote high-quality design for new build homes and neighbourhoods, and to protect high streets, the RIBA recommends that the government:

- The rights should also only apply to small scale development or changes.
- Establish a process of how "adequate" light should be measured
- Provide clear direction on how PDR fits within the government's vision of the future of the planning system
- Urgently amend PDRs to ensure developers contribute to s106 and CIL charges
- Clarify how permitted development fits into a vision of a local-led approach to place
- Prior approval considerations should specifically include provisions for mental and physical health
- Prior approval considerations should include how proposed new housing delivers upon the government's ambition of zero carbon by 2030.
- Prior approval considerations should consider proximity to green space and social infrastructure



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1. What role should permitted development rights (PDR) play in the planning system?

The English planning system has undergone continuous and radical reform in the last decade. This has significantly undermined its ability to deliver sustainable development gone and is too often producing outcomes that do not support people's mental and physical health. Of all the reform measures implemented since 2010 it is the expansion of permitted development which has and continues to have the greatest negative impact on housing quality and wider placemaking.

We are concerned that the rapid expansion of the permitted development regime has been central to creating a shadow planning system that is based on background reforms that undermine the expected Reforms to come later in the year as a result of the Planning White Paper consultation. The expansions of PDR prevent positive planning and eradicates the potentially place shaping powers of community engagement, damages the economy of high-streets, and produces extremely poor housing.

We recommend that PDRs should only be applied when development or change of use does not have any significant impact on mental and physical health and can be proven to not have detrimental climate impacts, and instead positively contributes to the Government's net zero targets. The rights should also only apply to small scale development or changes so that PDRs work alongside the plan-led system.

While the outcomes of permitted development may have initial positive economic impacts, the imposition of these rights within planning law will have an immediate and profound impact on local democratic accountability. In the RIBA report on delivering successful placemaking, we established ten characteristics of well-designed and attractive places, which put quality at the centre.¹ This included promoting mixed communities through a variety of housing tenures, with development occurring in the right places, for example, near proposed or existing infrastructure and essential local services. The extension of PDR is not conducive to achieving this goal of sustainable development. Considering the amendments to the National Planning Policy Framework (NPPF) highlighting the importance of sustainable development within the planning process, the expansion of permitted development rights is in direct opposition to policies being created at the same time and will not create places built for people to comfortably live.

Many shops are not suitable for residential conversion, owing to issues such as location or configuration. It is essential that the proper scrutiny of these buildings that occurs is a full planning application is upheld on order to ensure that the high street remains attractive and that all new homes offer a good quality of life. This is particularly important given the fact that the government has suggested that high streets could act as part of the solution for the lack of housing for disabled and older people. Under PDR, schemes only need to comply with the building regulations, which address limited technical issues such fire safety, energy efficiency, ventilation, soundproofing, and now the provision of space and "adequate" light. However, without full planning application, not even the default position of Category 1 can be required under current PDR. That means that many older and disabled people would be unable to live in these homes once converted, which will fail to

¹ <https://www.ipsos.com/sites/default/files/publication/1970-01/sri-riba-the-way-we-live-now-may-2012.pdf>

address the housing crisis that is already disproportionately affecting these groups. This along with the need for adequate privacy and daylight and private open space to provide a decent quality of life for residents poses a particular design challenge in retail to residential conversions which requires the planning system, not PDR, to sufficiently assess.

We welcome the direction of reforms to the planning system through the new National Model Design Code (NMDC). However, the NMDC illustrates how uses need to come together to activate places which is completely at odds with the proposed uses of PDR that are seen increasingly in the planning system. We therefore see that the inclusion of PDR within the planning reforms that are occurring this year is solely to increase the speed of the rollout of new housing, without integrating this into a part of a coherent vision of the future of the planning system.

While the use of PDR may accelerate the building of new houses positively in the short term, focusing on the short term fails to recognise that placemaking and planning require clear and long-term strategies to positively contribute to local areas. This is especially true as retail to residential conversions are likely to be irreversible. Opening high streets to the possibility of housing conversions as an attempt to provide a fast solution to the housing crisis will only act to exacerbate the ingrained inequalities within places that have been exposed through the Covid-19 pandemic. We therefore believe that the new applications of PDR have no place in the reforms to the planning system.

2. What is the impact of PDR on the quality and quantity of new housing, including affordable and social housing?

Local government plays a crucial role in building and supporting communities through supporting local involvement in planning places that become central to communities. This is not just about creating the number of homes in their area, but also about ensuring that these homes are built for the communities that live there, in the right areas, and are supported by social and economic infrastructure they need.

As shown in the Government commissioned report on the quality of homes built through permitted development, despite the use of standard specifications, these rights continue to deliver poor quality homes.² PDR also threatens high streets with substandard piecemeal retail to residential conversions. The lack of standards required in relation to space and sustainability has led to the creation of significant amounts of extremely poor-quality housing since the policy was introduced due to issues not being assessed as part of a prior approval process.

Conversions to residential affects vulnerable people disproportionately and can exacerbate existing inequalities, resulting in people being placed in accommodation that falls short of the Nationally Described Space Standard (NDSS) in locations with poor transport links and little to no connections to social infrastructure. Whilst we welcome the Government's announcement that all new homes in

² <https://www.gov.uk/government/publications/quality-standard-of-homes-delivered-through-change-of-use-permitted-development-rights>

England delivered through PDR will be required to meet space standards, this will not address the legacy of existing housing delivered through these rights that do not meet these standards.

There is a far greater challenge that arises from the condition of “adequate natural light in all habitable rooms”. The regulations fail to state how “adequate” light should be measured, with the consensus being that the judgements will be based on an existing Building Research Establishment (BRE) daylight standard. However, we do not believe that this reflects the needs of the housing market today. As well as this, in highlighting the need for an assessment of “adequate” daylight, the changes to the rights acknowledged the necessity of a process of judgement which undercuts the very purpose of permitted development. If a provision for adequate lighting is include, how will councils be compensated for the increasing complexity of the processing permitted development applications?

The location of the converted homes is also often extremely poor. The government commissioned work stated that “there was...a notable tendency that PD schemes were more likely to be located in primarily commercial areas (like business parks) and primarily industrial areas than planning permission schemes (7.9% of PD schemes compared to 1.0% of planning permission schemes; about eight times more). Our site visits found that some of these locations offered extremely poor residential amenity.”

Permitted development to residential conversions also enable developers to avoid contributions to local infrastructure through s106 and CIL charges. This is something that the Government must urgently address. Assessing the impacts on just five local authorities, a report by RICS from May 2018 estimated that they had lost out on £10.8 million in income and affordable housing totalling 1,667 new homes as a result.³ In January 2020, the Local Government Association estimated that local authorities have potentially “lost out on more than 13,500 desperately needed affordable homes” over four years.⁴ This increase shows that the expansion of these rights is causing a failure in the development of new homes. A crucial part of delivering new homes needs to be delivering more, genuinely affordable ones. Allowing developers to bypass this crucial function of the planning system is in effect a government subsidy for property owners, encouraging developers to make savings by reducing design quality through bypassing standards and the scrutiny that is required from landowners of undeveloped sites when engaging the planning system.

3. What is the impact of PDR on local planning authorities, developer contributions and the provision of infrastructure and services?

The consequences of the nationally determined permitted development rights are that local authorities now have very little control over many aspects of change in their area, particularly in town centres. PDR remove the ability for local authorities to appropriately support regeneration

³ <https://www.rics.org/globalassets/rics-website/media/knowledge/research/research-reports/assessing-the-impacts-of-extending-permitted-development-rights-to-office-to-residential-change-of-use-in-england-rics.pdf>

⁴ [LGA - Over 13,500 affordable homes lost through office conversions | Local Government Association](#)

efforts that are specific to their area, as well as not allowing for movement towards achieving the Government's net zero targets.

Permitted development is a short-term solution to meeting current housing need that will inevitably require significant investment in the future to remedy the increasingly large issue. The Government should instead prioritise assisting local authorities in bringing new housing forward through supporting infrastructure investment and directly investing in affordable housing.

We do not see a valid reason to remove the right of local planning authorities to effectively monitor the redevelopment of buildings. Due to the pre-existing benefits available to developers for redeveloping sites for residential use, for example the vacant building credit, there are incentives to bring forward high-quality proposals through planning permission. Therefore, PDR provides a loophole for poor design to go ahead.

These rights also have a profoundly negative impact on developer contributions, which within the current system are central to funding the provision of social infrastructure, transport and essential services. This also includes affordable housing. This is stripping local authorities of their ability to fund the provision of important local infrastructure, something which is in increased demand due to new housing coupled with the effects of the Covid-19 pandemic.

A study of the impacts of extended PDRs across five local authorities published by the Royal Institution of Chartered Surveyors in 2018 local authorities lost £4.1 million in reduced application fees.⁵ This was described as a "fiscal giveaway from the state to the private sector real estate interests". While it is obvious that this is not the intention of the Government's expansions to the use of PDRs, with this being the outcome it is essential to reverse these new rights.

We believe that permitted development also undermines the purpose of use classes in the planning system and can have a significant impact upon a Local Authority's ability to control changes to high streets. The impacts of Covid-19 on high-streets are yet to be determined, and these reforms have the potential to lead to unintended and irreversible consequences, undermining an area's decisions and long-term strategy for growth, as agreed through their Local Plan. Existing permitted development rights have demonstrated that local authorities are left powerless to maintain standards of quality when applications can bypass the planning system.

The loss of control over development will raise questions about the purpose of the Local Plan, especially due to the increasingly complex resourcing issues they are faced with. The RIBA understands the Government's focus on attempting to improve the flexibility of the high street so that it can better respond to the changing habits of its users. However, local authorities should be encouraged to work with owners of vacant buildings to respond to local need and bring buildings effectively back into use with proper scrutiny from the planning system. This would require Government support for local authorities in the form of advice on how to effectively engage

⁵ [assessing-the-impacts-of-extending-permitted-development-rights-to-office-to-residential-change-of-use-in-england-rics.pdf](#)

property owners, as well as proper resourcing to ensure they have the capacity to take a proactive approach.

Though we disagree with the increased resource burden on local authorities in setting Article 4 directions, this does enable them to take back some control in blocking poor design through PDR. This therefore must be upheld. However, the policy bar for approval is too high. With the new changes to PDR, we believe Article 4 directions are more important than ever in allowing local authorities to uphold their local plans for place-making. We are, therefore, concerned about the proposals the government recently consulted on in the draft National Planning Policy Framework (NPPF).⁶

Paragraph 53 of draft NPPF makes significant changes to the application of Article 4. The new proposed policy test sets the bar for the application of such orders too high by using language such as 'wholly unacceptable', or where impacts are of 'national significance'. As a result, the policy change would further strip away effective powers from local government over the control of their own communities. We raised this issue in the RIBA response to the NPPF consultation in March 2021.⁷

4. Is the government's approach to PDR consistent with its vision in the Planning White Paper?

Extending permitted development rights does not support the Government's aspirations outlined in the Planning White Paper. We are concerned that the Government has continued to extend PDR when they have not yet responded to submissions to the Planning White Paper consultation. There is not enough evidence to support the idea that allowing change of use from commercial to residential without planning permission will alleviate the burden of empty high street shops on town centres. As demonstrated in our previous answers, this has led to more poor-quality housing.

The aspirations laid out in the Planning White Paper include increased democratic accountability and transparency, as well as supporting the Government's net zero ambitions, planning for beautiful and sustainable places, and developing the necessary and high-quality infrastructure and affordable homes we need. However, with the focus of the White Paper being the urgency for a fast mass rollout of new housing, the proposals within the White Paper itself contradict its stated aspirations.

If the Government hopes to fulfil the vision of the White Paper by promoting beautiful, well designed places, which are locally led and community driven, it must reverse the changes to PDRs that have resulted in poor quality housing. At the very least, Government must implement minimum standards to ensure the quality of new homes developed through these rights are supporting people's mental and physical health, rather than undermining it. This includes recognising the importance of location in new housing.

At present local authorities can only object to permitted development applications in relation to a narrow list of prior approval matters. These matters fall far short of those necessary to safeguard people's basic welfare let alone delivering the Planning White Paper's commitments to 'beauty' and design. Alongside this, in broadening the scope for PDRs within town centres to encompass an even

⁶ [Draft NPPF for consultation \(publishing.service.gov.uk\)](https://www.gov.uk/government/consultations/draft-national-planning-policy-framework)

⁷ <https://www.architecture.com/~/media/C493BE5D8693491FA8E1CCDAC6369E79.pdf?la=en>

wider number of existing buildings, local authorities are now less convinced by the purpose of existing local and neighbourhood plans. These plans are essential to supporting ambitions for regeneration, and so the Government is undermining the ambitions of the White Paper in this way as well.

As well as this, the White Paper centres on the idea of rediscovering the mission and purpose of planning through a locally led community focused approach. The ambition to empower planners to prevent the ongoing development of unsustainable, poorly designed places is totally undermined by the Government's actions in the expansion of PDR.

5. What is the impact of PDR on the ability of local authorities to plan development and shape their local communities?

PDR can lead to unintended and irreversible consequences, undermining a local authority's decision-making and long-term strategy for growth, as agreed through their Local Plan. The Government's own research has highlighted how conversions to residential through change of use PDR can fail to meet adequate design standards, avoid contributing to local areas and create worse living environments. The research also found that PDR undermined the ability of councils to bring about positive changes in their areas because it limited their influence to repurpose town centre assets. These rights are leaving local authorities with a legacy of negative impacts and impossible resourcing challenges since the expansion of PDR began in 2015.

In extending PDR as a solution to the housing crisis within certain areas, the government are failing to recognise the distortive power of the major housebuilders, of land ownership and the dominant development models which their own report showed are the real barriers to increasing the supply of housing. As well as this, PDR undermine the ability of local authorities to plan development and shape their local communities.

6. Is the government right to argue that PDR supports business and economic growth?

We do not agree that PDR support businesses and economic growth. Whilst reduced regulatory barriers will achieve short to medium term economic benefits, the planning system should be based on long term goals. The long-term impact of poor-quality development will and has already proven to outweigh the short-term benefits of housing more people.

We welcome Government's recognition that our town centres must change, however permitted development rights that allow most commercial buildings to be converted to housing risks putting the long-term health of our town centres at risk for the sake of a short-term stimulus. The loss of revenue from business rates will create additional challenges for councils already trying to recover economically from the pandemic. The expansion of the rights is a false economy when it comes to economic growth by not contributing to infrastructure development. As well as this, Retail and related uses thrive in clusters, supporting an ecosystem of local services and public benefits including social cohesion. At a time when retail is under threat due to Covid-19, PDR could threaten the very existence of high streets.

7. What is the impact of PDR on the involvement of local communities in the planning process?

Despite Government's continued assertion that through this system since decisions are made locally, they are still democratic, we disagree with this for several reasons. Primarily, the rights entirely remove the involvement of local communities in the planning process. The increased strain on LPAs may mean that they do not have the resources to carry out the level of community engagement critical to achieving good planning outcomes for their area. Since the pandemic began, communities have been spending more time in their local areas, at home and understand their local needs now better than ever. Councils want to make and shape great places, and have clear, strong ambitions for their local recovery and long-term prosperity.

We are concerned by the rules that apply to PDR decisions, which are set centrally and not subject to any local control or community participation. The policy aspirations of a local community contained within a local plan do not have weight in determining permitted development decisions. The scope of the nationally described rules excludes many issues that local politicians and people might care about including, for example, mental and physical health or delivering zero carbon development.

The British Social Attitudes Survey 2017 demonstrates clearly that investment in community infrastructure and facilities are the reasons that will make people most likely to support new developments in their area. Selecting the advantages that would make them support homes being built in their local area, respondents most frequently selected 'more employment opportunities', 'more medical facilities built, or existing ones improved', 'transport links improved', 'more schools built or improved' and 'more affordable homes to rent'. Therefore, if developers are not contributing this vital community infrastructure then the atmosphere of opposition to new developments will remain and potentially increase, creating further barriers for the government to achieve new home targets.

8. Should the government reform PDR? If so, how?

Our planning system undoubtedly needs reforms that will put the health and safety of the communities it is created to serve at the centre of policy and regulation, however deregulation through PDR will not solve the issues within the planning system. Though it was obviously not the intention of the Government to perpetuate the issue of demonstratively substandard accommodation, this has clearly been a consequence since permitted development rights have been extended to create new homes. The RIBA is strongly supportive of bringing vacant buildings back into use. However, this should not be achieved by creating poor quality homes. If we are to 'build back better' we need responsible development and a holistic approach to a high street's future, which means new homes are planned for. The new changes to PDR will take control away from local authorities at a time when our high street's future depends more than ever on strong local leadership and vision.

