
Expanding Permitted Development Rights

A response from the TCPA to the consultation by the Department for Levelling Up, Housing and Communities
August 2023

1 Summary

The Town and Country Planning Association (TCPA) is strongly opposed to the radical deregulation of the planning system proposed in the Government's consultation on 'additional flexibilities' to support housing delivery. The twin mechanisms for this deregulation are:

- The extensive expansion of the scale and scope of permitted development rights (PDR), including the removal of the minimum safeguards which the government placed upon permitted development conversion from range of commercial, agricultural and educational uses to residential use.
- The further relaxation of the Use Class Order so buildings and land around them can be converted to new uses with significantly reduced safeguards for communities.

Taken together these measures undermine local democratic control over the quality of placemaking to create sustainable, resilient, healthy and prosperous communities, by:

- removing opportunities for the public to have any meaningful voice over major areas of development;
- undermining the plan-led system because the local plan does not fully apply to PDR decisions;
- further enabling extremely poor-quality development in unsuitable locations which lack basic services and harm local high street economies;
- reducing developer contributions towards affordable homes, local infrastructure and amenities through cutting local tax, CIL and Section 106 requirements; and
- promoting fragmented, car dependent urban sprawl.

Firstly, this response highlights the array of evidence that has identified significant problems with existing PDR policies, evidence that the consultation entirely fails to acknowledge. Secondly, it responds to the specific proposals in the Government consultation, indicating our clear opposition to these proposals to further deregulate the quality of homes in this country.

2 About the Town and Country Planning Association (TCPA)

The Town and Country Planning Association's vision is for homes, places and communities in which everyone can thrive. Our mission is to challenge, inspire and support people to create healthy, sustainable and resilient places that are fair for everyone.

Informed by the Garden City Principles, the TCPA's strategic priorities are to:

- Work to secure a good home for everyone, in inclusive, resilient and prosperous communities which support people to live healthier lives.
- Empower people to have real influence over decisions about their environments and to secure social justice within and between communities.
- Support new and transform existing places to be adaptable to current and future challenges, including the climate crisis.

The TCPA is a charity and company limited by guarantee.

3 Overarching considerations based on the existing evidence about PD conversions

The TCPA is opposed in principle to all parts of the expansion of the permitted development rights (PDR) regime that allows the conversion of commercial and agricultural buildings into homes without the necessary safeguards to support sustainable development and ensure the health and well-being of residents. Our response is focused on ensuring that the Department is clearly aware of the evidence of the negative impact of these proposals and the potential risks which arise from removing the current limited safeguards.

The existing evidence about the negative social and economic impacts of PDR policy is overwhelming¹. The current PDR regime has been disastrous, creating slum housing conditions with long lasting negative effects for both people and places, harming people's productivity and prosperity. Further extending PDR will only exacerbate these problems. At no point does the consultation document engage with the existing evidence or acknowledge the disproportionate impact to those in greatest housing need and those with vulnerable characteristic.

Failure to take account of this evidence in the consultation document is negligent. This is particularly a concern when key safeguards, such as the gateway one test for fire safety or the sequential test for flood risk, do not apply to permitted development with the same rigour as they do for full planning applications. The proposals to extend the conversion of commercial buildings to housing units significantly increases such risks. The proposed expansion also compounds the question about the suitable location of new development. The consultation appears to assume that PDR will be deployed primarily in town centres.

The concept of reusing genuinely redundant buildings for homes can be valuable where this can be done in a carefully planned way. Reusing buildings in a well-planned way can ensure high quality housing standards and quality, that development is adequately supported by key services and that proposals fit into wider aspirations for both rural and urban communities.

¹ For example see: committees.parliament.uk/writtenevidence/26255/pdf/ (TCPA,2020); [Emerging problematics of deregulating the urban: The case of permitted development in England \(Ferm et al, 2021\)](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/902220/Research_report_quality_PDR_homes.pdf); https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/902220/Research_report_quality_PDR_homes.pdf (MHCLG, 2020)

Unfortunately, the proposals to expand PDR fail on all of these tests. This is because they fail to consider how:

- PD impacts on local economies, affordable housing and community infrastructure
- Unplanned development increases car dependency, isolation and urban sprawl
- Poor quality PD conversions leads to unhealthy people.

3.1 PD impacts on local economies, affordable housing and community infrastructure

While there have been direct economic benefits to commercial property owners, there is no evidence that existing PDR deregulation has had a positive impact on the economy of town centres. Such development reduces local tax contributions and undermines attempts to master plan and consolidate the retail offer of towns by removing any meaningful powers from local government. The result is the fragmentation of the retail offer and a further weakening of the viability of town centre economies. The British Property Federation commented, ‘poorly planned PDR homes will do more harm than good. It’ll result in quick delivery of new homes in a piecemeal approach, without taking into consideration what the entire high street requires to successfully serve the community.’²

The implications of PDR to affordable housing and community investment have also been disregarded. PD reduces local government tax contributions, are usually Community Infrastructure Levy exempt, and requirements for Section 106 agreement only kick in above 10 units or under planning permission. The Royal Institute of Chartered Surveyors (RICS) reviewed the impact of PD in five local authorities and described reduced investment in local amenities as the PD residential developments were not subject to planning process. They found:

- Schemes were not making Section 106 contributions, leading to a potential loss of income of £10.8 million for the five areas.
- There was £4.1 million less income to these five councils due to lower planning fees³

RICS calculated that a potential of 1,667 affordable housing units were lost amongst the five local authorities in the study area.⁴ Such financial losses are detrimental to the ability of LPAs to ensure sustainable place-making that reflects the needs and interests of its residents.

Those who are the most vulnerable typically bear the brunt of this deregulatory framework. In our report, *No Place for Place-Making*, the TCPA explains that: ‘Without a supply of affordable housing, local residents can remain on local authority waiting lists for longer, living in temporary accommodation which is often of poor quality (and has itself often been created through permitted development) and which can seriously affect their health. Children who live in temporary accommodation for over a year are three times more likely to develop a mental health condition.’⁵ Affordable and good quality housing is vital to ensure people have the best possible life chances. Temporary accommodation through PD conversion is failing to provide people with the secure and safe homes that help them to participate in the economy.

² [Government plan for uncontrolled conversions to residential will not save our high streets](#) (British Property Federation, 2021)

³ [Impact of extending development rights to office-to-residential change](#) (rics.org) (RICS, 2018)

⁴ Ibid.

⁵ [No Place for Place-making report](#) (TCPA, 2020)

3.2 Unplanned development increases car dependency, isolation and urban sprawl

There are significant concerns about how large unplanned PD development that is not within the control of local authorities will be properly supported with social facilities. These problems are intensified in the many locations where offices or retail units could be converted into homes in out-of-town retail parks or industrial estates. Here the consequences of hundreds of flats being created with no nearby school, shops, health facilities, and little to no access to green or play space are simply disastrous. They will have a direct and negative impact on the health and well-being of residents and directly undermine the Government's stated policy objectives to promote beauty, health and resilience to climate change. Real harm is likely to result from the expansion of unplanned permitted development and the responsibility for such harm lies clearly with the Department.

Sites on active industrial estates are not suitable for residential use. UCL reported on examples of PDR conversions on active industrial estates in Leeds. Leeds Council had no leverage to promote sustainable patterns of land use or to mitigate the impacts of noise, pollution and poor environmental quality from industrial activities for the residents living there, as well as no access to nearby green space or children's play space⁶. Isolated industrial estates require PD residents to have a car as they have limited access to public transport and local amenities such as shops, GP, schools and parks nearby. However, residents housed in these sites can often be in temporary accommodation arrangements, lacking the means to own a car.

3.3 Poor quality PD conversions leads to unhealthy people

Fundamentally important is the relationship between physical and mental health outcomes and the quality of homes and places we produce which is now well understood (Figure 1).



Figure 1. The evidence about health outcomes from well planned and good quality place-making is clear⁷

⁶ [Emerging problematics of deregulating the urban: The case of permitted development in England \(Ferm et al, 2021\)](#)

⁷ [Strengthening the links between planning and health in England \(McKinnon et al, 2020\)](#)

Diverse, affordable and inclusive housing, liveable space, noise insulation, energy efficiency, climate resilience, ventilation, air quality, year-round thermal comfort, natural light, access to amenities, public transport and nature are all important aspects of healthy homes⁸. Existing PDR policy is failing to ensure good quality places that enable healthy outcomes for people and communities⁹. And we know poor health has knock-on social and economic costs, harming productivity and prosperity as a result of people's reduced capacity to engage and contribute¹⁰.

Levitt Bernstein reviewed several PD sites across the country and found the following concerns were typical: poor internal space and layout; poor sound insulation; poor access to natural light; poor internal ventilation and air quality; poor access to outdoor green areas and play spaces; lack of dual aspect windows (further impacting ventilation)¹¹. Their findings are further supported by research by RICS, which concluded: 'PD residential quality was significantly worse than schemes which required planning permission, even though it clearly was still possible to deliver viable office-to-residential schemes through the more stringent full planning permission process'¹².

4 Specific response to the proposed changes to PD

Our principal concerns regarding the Government's proposals relate to the following issues:

- Extending or removing the scale test
- Removing the vacancy test
- The removal of safeguards in protected areas
- The expansion of PDR to hotels and hostels

4.1 Extending or removing the scale test

The proposal to expand or even remove the threshold of the scale-test for PDR conversions will have direct social and economic implications by amplifying the negative socio-economic impacts which are associated with PDR, as referred to in 3.2. Extending the scale test will further undermine developer contributions towards affordable housing and local amenities, and put greater pressure on social and green infrastructure without the planning gain income to address some of that increased need¹³. It will also extend the unplanned loss of retail and commercial space which will be hard to reverse, therefore harming the local economy and employment opportunities¹⁴. The chair of the Local Government Association, Shaun Davies, recognised how existing PD is undermining local governments' capacity to deliver local amenities and stated:

Further expanding permitted development rights risks creating poor quality residential environments that negatively impact people's health and wellbeing, as well as a lack of affordable housing or suitable infrastructure.¹⁵

⁸ [Built and natural environment planning principles for promoting health: an umbrella review \(Bird et al, 2018\)](#)

⁹ [committees.parliament.uk/writtenevidence/26255/pdf/ \(TCPA, 2020\); Emerging problematics of deregulating the urban: The case of permitted development in England \(FERM et al, 2021\)](#)

¹⁰ [Valuing health: why prioritising population health is essential to prosperity \(BMA, 2022\)](#)

¹¹ [Why the government should end pdr for office to resi conversions \(Levitt Bernstein, 2019\)](#)

¹² [Impact of extending development rights to office-to-residential change \(RICS 2018\)](#)

¹³ [Research into the quality standard of homes delivered through change of use permitted development rights \(MHCLG, 2020, p11\); Impact of extending development rights to office-to-residential change \(RICS 2018\)](#)

¹⁴ [Our Fragile High Streets – Death by Permitted Development Rights? \(TCPA, 2021\)](#)

¹⁵ [Sunak promises new focus on inner-city housebuilding projects \(The Guardian, 2023\)](#)

There is no consideration in the consultation about the implications for increased PDR conversion in relation to large buildings which may be in intrinsically unsuitable locations for residential use, such as next to major roads and out-of-town industrial estates. Our *These are Homes* photos depict a number of offices that have already been converted under existing PDR that are along-side major roads. Homes are therefore exposed to the associated noise and air pollution from the adjacent traffic (see Figure 2)¹⁶.



Figure 2. Beacon House, Neasden, London – PD converted flats facing the North Circular Road

The proposal to expand or remove any scale limitation on the conversion of commercial buildings to housing units has the potential to significantly increase risks relating to key safeguards on issues such as fire safety. This includes the ‘planning gateway one’ test for fire safety, where planning applicants are required to produce a fire statement with land use information, including about emergency vehicle access and water supplies for firefighting¹⁷. This test applies to sites seeking planning consent and there is no indication that extended PDR will have to apply the requirement to ensure adequate fire safe land-use around sites. The Department should urgently clarify whether the gateway one test will apply to all PDR applications within the scope of the consultation.

There also remains significant concerns about expanding the scope of PD in relation to flood risk and to other climate challenges such as overheating. The Environment Agency estimates that 5.2 million of all properties in England are at risk of flooding¹⁸. While flooding remains a matter in the prior approval process, the legal effect of PDR is to render the sequential test meaningless. The sequential test requires a planning applicant to compare a proposed site with

¹⁶ [These are Homes photobook \(TCPA, 2023\)](#)

¹⁷ The fire statement should include information about:

- the principles, concepts and approach relating to fire safety that have been applied to each building in the development
- the site layout
- emergency vehicle access and water supplies for firefighting purposes
- what, if any, consultation has been undertaken on issues relating to the fire safety of the development; and what account has been taken of this
- how any policies relating to fire safety in relevant local development documents have been taken into account: [Fire safety and high-rise residential buildings \(DLUHC and MHCLG, 2021\)](#)

¹⁸ [Managing flood risk \(National Audit Office, 2020\)](#)

alternative sites to see if the alternative sites have lower flood risk. However, the sequential test is not needed if:

- *the development is a minor development.*
- *the development involves a change of use (e.g. from commercial to residential) unless the development is a caravan, camping chalet, mobile home or park home site¹⁹*

This means there is currently no requirement to compare a PD site against alternative lower flood-risk options to meet residential needs. While PDR can be refused if flood risk mitigations such as safe escape routes cannot be found, the overall effect of the policy is to increase risk to people and to property. It is also notable that none of the 90,000 housing units created by PDR since 2013 benefit from the Government's FloodRe scheme.

Furthermore, the quality of large-scale conversion is a real concern. The Government-commissioned review of PDR in 2020 found that 'the larger scale of many conversions can amplify residential quality issues'²⁰. For example, 80 flats without any amenity space (balconies, green space) will be much more problematic than five flats - as the pressure on any existing nearby open space becomes greater, and then having larger groups all together in poorer quality accommodation can lead to anti-social behaviour, as well as negative wellbeing impacts.

In light of all of these concerns, we advise that the scale test should not be removed.

4.2 Removal of vacancy test

Current PDR guidance refers to a three-month vacancy test before proposing to convert commercial properties. We argue that three months is already too short in terms protecting local high streets. This minimum time only allows only a small window of opportunity for alternative commercial tenants to seek to rent a property. The Institute for Place Management raised concerns about the three-month rule to the Housing, Communities and Local Government Committee review of PDR. They referred to accounts of landlords bringing retail leases to a 'premature end' and stating it was 'one thing having a premises vacant and neglected for a decade' but 'quite another thing for it to be vacant for just three months'. Dr Clifford from the Bartlett School of Planning said the three-month rule was too short and could be 'easily circumvented' as landlords could 'artificially create a vacancy'²¹. We therefore recommend the length of vacancy test is actually extended rather than removed.

As outlined in 3.2, there are significant concerns about the impact to local high streets and communities with regards to removing both the scale-test and this minimal vacancy test. The RICS pointed to the economic damage of converting retail spaces, such as reducing employment opportunities in areas like Camden²². The British Property Federation support this concern, noting that creating an unplanned and piecemeal approach to development will damage the high street and had already hit challenged local government finances:

¹⁹ Flood risk assessment: the sequential test for applicants (UK GOV, 2023)

²⁰ Research into the quality standard of homes delivered through change of use permitted development rights (MHCLG, 2020, p10, p56)

²¹ <https://committees.parliament.uk/publications/6896/documents/72563/default/> (HCLGC, 2021, p21)

²² Impact of extending development rights to office-to-residential change (RICS 2018)

An anonymous example of a parade of 80 commercial premises would generate an income of £542,500 in business rates – but when half is converted into 50 flats, rates paid by 40 commercial premises and council tax paid by 50 flats, the income would only amount to £337,000. This is a decrease of 38% in income for local finances.²³

4.3 Rural permitted development on Article 2(3) land

The TCPA is opposed to the proposals to remove safeguards from the damaging effects of permitted development from Article 2(3) landscape designations that are currently exempt such as National Parks and Areas of Outstanding Natural Beauty and particularly the proposals to allow up to 10 housing units to be developed on existing farms. There are very significant environmental and landscape issues raised by these proposals that would allow rural hamlets to be developed on every farm in England. Many of these concerns have been raised by other organisations, including the National Park Authorities and CPRE: The Countryside Charity – who state that:

the proposals if enacted, would irrevocably damage our most treasured and protected landscapes... with no scope to insist on affordable housing or any other measures that might alleviate the housing crisis²⁴.

The TCPA is concerned that these proposals will undermine sustainable development lead to unplanned and fragmented housing development across the countryside, increasing car dependency. The policy will create isolated communities with no provision of basic social facilities such as schools, healthcare and shops and extremely limited cultural and work opportunities for residents. Such developments raise important issues of social isolation but also ignore the practical reality of grid connection to water supply and sewage disposal. We note there are no requirements for any of these homes to be affordable and as result they will not address the most acute aspects of the rural housing crisis.

Rural development is vital, but it should be focused on existing communities that are better placed to provide the basic facilities to enable healthy and sustainable lives. Housing policy for rural areas needs to address affordability, the quality of housing and diversity of supply. While these proposals clearly benefit landowners, they will create a legacy of poorly located and poor-quality development that will undermine wider policy goals on health, climate change and housing affordability.

4.4 Hotels, boarding houses and guest houses

The key problems associated with expanding the scope of PDR to include hotels relate: firstly to meeting minimum space standards; and secondly ensuring the provision of inclusive and adaptable homes. In relation to the current minimum space standards under the 2021 PD amendment, it is entirely unclear from the consultation whether hotels converted to residential under PD will be expected to be compliant with that standard. We note that the consultation makes clear that nationally described space standards will apply to rural development but makes no such commitment for hotels and hostels. It is vital that the space standard is

²³ [Government plan for uncontrolled conversions to residential will not save our high streets \(British Property Federation, 2021\)](#)

²⁴ [Plan to allow barn conversions without planning permission 'would destroy England's national parks' \(The Guardian, 2023\)](#)

consistently applied across all types of PD conversions, based on clear evidence of the benefits to daily functioning, and mental and physical wellbeing²⁵.

Further expansion of PDR into these new use classes also raises the wider questions regarding inclusion and adaptability. More than 104,000 people are estimated to be on waiting lists for accessible and adaptable homes²⁶ and population models indicate one in four people in England will be aged 65 or over by 2041²⁷. The pressing need to build homes that are inclusive, accessible and adaptable is clearly evident. Building Regulations M4(2) and M4(3) are optional, and the proportion of these provisions are only defined through the planning application process. There is therefore no obligation for PD to meet the standards in this area – subjecting elderly and disabled people to entirely unsuitable conditions for habitation and daily life.

5 Conclusion

The evidence is overwhelming that better quality residential environments typically arise from schemes that receive proper local planning scrutiny and consent rather than those schemes completed through PDR. The TCPA strongly believes that existing PDR policies have undermined local democracy, as communities are left with little to no control or influence over the changes to their local environment. In addition, there is no way to ensure that new residents of PD schemes have the services that they need, such as GPs or schools due to the surpassing of the planning system. The planning system was designed to promote sustainable development and regulate any schemes that undermine this. Yet with this further pressure to deregulate through the expansion of PDR, there are limited opportunities for local authorities to do so.

6 Contacts for further information

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²⁵ [Space standards: the benefits \(UCL, 2010\)](#)

²⁶ ['Disabled people want their homes 'not to hurt them' \(The Big Issue, 2023\)](#)

²⁷ [Good homes for all - A proposal to fix England's housing. \(Housing LIN, 2021\)](#)