



# Housing, Communities and Local Government Committee

## Oral evidence: Permitted Development Rights, HC 32

Monday 7 June 2021

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### [Watch the meeting](#)

Members present: Mr Clive Betts (Chair); Bob Blackman; Ian Byrne; Brendan Clarke-Smith; Ben Everitt; Andrew Lewer; Mary Robinson; Mohammad Yasin.

Questions 68-108

### Witnesses

**I:** Ojay McDonald, CEO, Association of Town and City Management; John Myers, Representative, YIMBY Alliance, and Representative, PricedOut; Matthew Davis, Head of Membership, Institute of Place Management.

**II:** Dr Ben Clifford, Associate Professor in Spatial Planning and Government, Bartlett School of Planning, University College London; Ben Southwood, Head of Housing, Transport, and Urban Space, Policy Exchange; Sarah Bevan, Programme Director, Planning and Development, London First.

### Examination of witnesses

Witnesses: Ojay McDonald, John Myers and Matthew Davis.

**Chair:** Welcome, everyone, to this afternoon's session of the Housing, Communities and Local Government Select Committee's inquiry into permitted development rights. These are the rights that mean that buildings can be built or extended, or the use of the buildings can be changed, without the owners having to apply for formal planning permission. We have two panels this afternoon. I will come over to the first panel and get them to introduce themselves shortly. Before that, I will ask members of the Committee to put on record any interests they have that may be particularly relevant to this inquiry. I am a vice-president of the Local Government Association.

**Ian Byrne:** I am still a serving councillor in Liverpool.

**Andrew Lewer:** In addition to my register of interests, I am a vice-



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president of the LGA.

**Mary Robison:** I employ a councillor in my staff team.

**Brendan Clarke-Smith:** I employ councillors in my staff team.

Q68 **Chair:** Thank you very much. That has put our interests relevant to this inquiry on the record. We will come back to the panel of witnesses. Thank you very much for joining us to give evidence this afternoon. I will introduce you and ask you to say a little bit about yourselves, so we know who you are and the organisation you are representing.

**Ojay McDonald:** I am Ojay McDonald. I am the CEO of an organisation called the Association of Town and City Management. We are a membership body that represents those who manage towns and city centres across the UK and Ireland, including local authorities and business improvement districts.

**John Myers:** I am John Myers. I am here on behalf of the YIMBY Alliance and PricedOut. Our non-partisan volunteer campaigns seek to represent young people and others who have been needlessly priced out of being able to afford decent housing. We aim to represent the silent voices who do not have the time to turn up at planning committee meetings but still need homes to be built.

**Matthew Davis:** Good afternoon, everyone. I am Matthew Davis. I am the head of membership at the Institute of Place Management. We are an international membership body for people who serve places, for example town centre managers, local authorities and academics. We also are the lead on the Government's High Streets Task Force.

**Chair:** Thank you all for coming this afternoon. We have a number of questions now. If you agree with what has been said already, you can just tell us that you agree, although I suspect, looking at the evidence you submitted, there may be one or two areas of disagreement between you. That is all the healthier for the Committee to find out different views that are being put forward to us. Let us begin with all of you coming in on a general question. What role does permitted development have to play in the planning system? It has obviously increased in terms of the ability to use it in the last few years and the purpose for which it can be used. What is your take on it?

**Ojay McDonald:** The use of permitted development rights should probably be fairly limited in town centres, based on the experiences we have had with it. It is a shame for us to say that, because ATCM itself is an organisation that has always championed more mixed-use town centres. The introduction of more housing in town centres is an entirely good thing, but town centres are ecosystems. We need to make sure we get the nature of the housing right and get the services around that residential development right as well.



Our experiences dating back to 2013, when we saw the introduction of permitted development rights for converting offices to housing, were not positive ones. There were lots of negative outcomes. That is because permitted development rights is such a blunt tool and it is not helpful. Back then, if you consider the context, we had the financial recession. We had an increase in empty office stock in some parts of the country. Government introduced permitted development rights to help us with a greater supply of housing, but unfortunately—this is a bit of a generalisation—across the south of England housing values were higher, so there was more incentive for landlords to make the conversion. However, the availability of empty office stock was lower. In order for landlords to benefit from the conversion, they had to evict businesses. We know of businesses that ceased trading as a direct result of the introduction of permitted development rights.

At the same time, in the north of England, where housing prices were generally lower, those conversions were not happening. This is where you open up a tool that is a blunt instrument to market forces, which needs a bit more sensitivity and nuance to make it work. I am sure we will come on to this later, and why I think the current context is still wrong for yet more permitted development rights. The scope should be limited. Treat with care when it comes to introducing planning deregulation in town centres.

Q69 **Chair:** I think John Myers may have a slightly different point of view there.

**John Myers:** We probably all agree that there is some role for permitted development rights. As the Committee knows, they have existed for many years. There is no doubt that we could do them better. The introduction of controls on design and those sorts of prior approvals has been a positive step. We have to take a step back and remember, as we all know, that high streets have been evolving for hundreds of years. There have been Georgian and Victorian high streets that were originally built as houses and then turned into shops.

We would suggest that we need better mechanisms to incentivise the right sorts of use. The tax system obviously needs looking at. There is the disparity between rates and council taxes, for example, and the unfortunate way that stamp duty works. There are problems with the way the benefits system forces people into inadequate housing. But we do not think that you can abandon these sorts of permitted development rights.

We recently interviewed 30 senior housing and planning people across the country. There was a wide range of views. Some of them quite welcomed permitted development rights in relation to householder applications, for example, because it took hundreds of cases off their workload. For us, it is a mixed thing. There are some elements of these rights that are very positive. They are adding very much needed housing in places where there is the most acute problem.



**Matthew Davis:** I agree with some of what has just been said by both witnesses. Our focus is also on high streets and town centres, so places that are vital to the communities. Yes, they have evolved over hundreds of years, but they still exist to provide that economic and social opportunity. Our concern is about how we best enable them to thrive. Housing most definitely plays a role in that multifunctional place that is emerging, increasingly over the past five years, moving away from just monoculture of retail.

Ironically, this new PDR is coming forward at a time when many local authorities are looking at ways to manage the introduction of housing anyway in that town centre context. To manage that shift to multifunctional places, it is really important that we have co-ordination and strong leadership. We think that PDR in the form proposed, particularly in change of use from class E to housing, could undermine the ability to deliver that co-ordinated approach. We really do not want these many centres across England and the UK that are being rediscovered at the moment, perhaps as we are spending more time around our localities, pockmarked with ill-conceived accommodation, breaking up that high street experience.

Over the past few years we have contributed to numerous Government inquiries. They all focus on development led by the local authority and cross-sector collaboration. That is what we do not want to see sacrificed in favour of that change of use in particular, via PDR.

**Chair:** Ian Byrne is going to explore that point about local authorities and their general role in changing, altering and shaping their communities.

Q70 **Ian Byrne:** What role should local authorities and other groups play in planning development and shaping their communities? To what extent will PDR affect the role of local authorities and local groups to shape their communities?

**Matthew Davis:** National Government recognises the local government and local authority role. When I look at all the funding around at the moment, we have £4.8 billion committed to regeneration through the levelling-up fund. The vast majority of that is awarded based on evidence of strong local visions that support economic health, the community and cultural priorities of the area. That is co-ordinated by the local authority. Yes, it has an input from a wide range of local stakeholders, including developers and businesses, but they are the guardians of that vision.

Our view is that PDR, as I have already said, undermines that. I say that because of the ability to act unilaterally as a developer or landlord on a much larger scale than previously. From previous studies, when you look at what factors contribute to vital and viable centres, we identified over 200. Leadership ranks second. Using your local networks ranks in the top 20, as does collaboration, near enough. These are the vital ingredients.



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People might ask, “Can’t we have that leadership and a streamlined planning system as well?” We can, but if it leads to conversion to residential uses at the ground level on high streets, we will end up fragmenting that experience, compromising those local visions disproportionately to the activity of a simple conversion of a single unit, if you like. We view the role of local authorities as being the guardians of that complex picture—the ecosystem that Ojay mentioned at the start. We want to prioritise avoiding that being undermined as much as possible.

**John Myers:** There is much to agree with there. If you talk to the Planning Officers Society, I think it would say itself that the current powers to control high streets are inadequate. The previous use classes did not do exactly what it wanted to do. You still could not preserve your local fishmonger, for example. We need to look at the whole system. There are obviously differences around the country. There are many high streets where we have to face the reality that the world is changing, shopping is changing and they are going to have to move to different uses. I am by no means saying that the current set of proposals is perfect, but we need to move in the direction of more flexibility, coupled with the powers for councils to achieve the results they want.

Q71 **Ian Byrne:** To build on that, do you believe it does not diminish the role of local authorities and any local groups to shape what their communities should look like?

**John Myers:** I am not saying that. I am a strong believer in localism. There is no doubt that there are some planning systems that are overwhelmed and under-resourced. You are not sometimes getting the speed of decision that you need. The current rights are a very blunt instrument. I am by no means saying that they are perfect. We all need to recognise that this is a crisis and we have to move faster than we are doing. There are definitely some areas where it has been a step in at least partially the right direction.

**Ojay McDonald:** We know the role that local authorities should be playing. Matt has spelled that out well, so I agree with that. There are other key stakeholders who are also really important to this process, who, unfortunately, will be undermined.

Over the past few years we have seen the introduction of things like neighbourhood planning. Having looked through the *Planning for the Future* White Paper, there were proposals in there for community participation using new digital technology to visualise what development might look like. That is not necessarily a bad idea; it is something I am really interested in. I know the Committee will have its views on that planning proposal altogether. In terms of more community participation, it feels like permitted development rights will just pull the rug from a lot of that and concentrate too much power in the hands of a few, which is concerning.



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I think about the role of, for example, not just local planning authorities but public health. What might town centres have to look like post-pandemic? Public health should have a role in helping to make sure that our town centres are safe, going forward. I am not sure how that works when we start to undermine the planning system like this.

Planners will have a challenge on their hands to support what town centres look like in a period where we need to start thinking about our climate change obligations. When we think about our climate change obligations, where we co-locate people, residents and the businesses and services they use will have a massive impact on the amount of travel we generate and the amount of carbon we generate. We need to get those things right. My fear is that permitted development rights undermines that.

One stakeholder that we probably do not talk enough about, in terms of being undermined by this, is actually investors, developers and landlords themselves. Ultimately, the challenge for them is that if you are an investor in a town centre, you want to know that your investment is safe. You want to know what is round the corner. You want to know, when you invest in a certain property, what the uses of the other properties around you are going to look like. This type of deregulation of the planning system creates a lot of uncertainty.

I have spoken to a small coffee franchise that wants to expand and grow but has been nervous about doing that. It needs to understand what the fallout from Covid is, what is happening to that anchor retail store and what the high street is going to look like. Something like permitted development rights is a real challenge for them. Ultimately, there is very little by way of knowledge in terms of what comes down the line. I agree with John that we need to embrace change. Town centres need to evolve, but if we all understand that housing has to be part of the mix, I cannot understand why we cannot do that through planning permission, do it properly and get the right housing. It is not a case of housing or no housing; it is a case of making sure this is done properly, so that, when we do it, the changes are permanent.

**Q72 Ian Byrne:** That was a good answer. I am going to stick with you for the second part of the question. How useful are prior approval and article 4 directions where a local authority wants better control of development in an area? What will the impact of the Government's proposal to restrict the use of article 4 directions be?

**Ojay McDonald:** I am a bit concerned about that. It looks like the prior approval list has been improved following the consultation, but there is still more we can put in there to enhance it further. I do not think it is strong enough. I am particularly concerned about the two-month gap, I think it is, before you are allowed to convert an empty property. I cannot remember; it is either two months or three months.

**Ian Byrne:** I think it is three months.



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**Ojay McDonald:** That will not be long enough. When property owners think about the value of their asset, they are thinking 10 years, 15 years, 20 years or decades down the line. If they have to bear the pain of a property that is empty three months before they are able to flip it to housing, that is not going to be much trouble for them. We need to look at extending that.

We also need to think about making sure that ground floor uses in town centre areas have some level of protection. I would like to see the use of article 4 directions return. There were a number of areas that have been really concerned about the loss of some of their commercial assets in town centres, which have relied on article 4. The removal of article 4 will be a real challenge for them because of the nature of their area. It is things like high housing value, high in comparison to the value of commercial, but also fragmented property ownership, which means there is a lack of co-ordination in terms of what property owners do.

Unfortunately, you get the odd property owner that puts in the wrong type of housing in the wrong place, which is detrimental to everyone. I am concerned about those things, so we need to tighten up on article 4 and the prior approval list.

**Matthew Davis:** I have similar concerns and can perhaps give a slightly different perspective on some of the figures, particularly on prior approval. We think the three months' vacancy in the proposals is a particular concern. There is a thing here about the context of the high street. At the moment, a lot of people are saying that the high street has changed forever—that everyone is shopping online now and it will never be the same. Actually, when you look at the figures, that does not stack up.

It is one thing having a premises vacant and neglected for a decade, but it is quite another thing for it to be vacant for just three months after which it would qualify as a PDR and potentially change of use into residential. We have seen a massive rise in "shop local" sentiment. Yes, we have seen online shopping rise to above 30%, almost exponential over the past couple of years, but actually we lost more retail units in response to the financial crash in 2008 than we did in the year just gone.

Ojay raises the point about the potential permanence of some of these conversions. Very few will have the resources or incentive to convert back to commercial spaces once they are residential. That concern is being raised by a lot of our members.

While I am on the point of eligibility and three months being the vacancy requirement, we are also hearing stories from our members of landlords already looking to position, in terms of bringing leases to an end prematurely. We are really concerned about that three-month requirement and the weight of evidence that is required.



There is another thing to bring in on prior approval. If you look at the scale of the challenge at the moment, if we just look at housing, looking at different estimates, there are perhaps around 50,000 vacant shops in the UK. On last figures in 2019-20, we built 241,000 homes in this country. We do not think the measure is proportionate to the scale of the housing crisis or the need for new housing. We will risk permanently degrading centres that are so important.

There is a last thing I would point to as well, because I want to point to lots of the good things going on. I mentioned that local authorities are addressing housing at the moment and being innovative about uses. There are so many schemes through the towns fund and others. Basildon is one that has stuck out, which I have used as an example in many groups. They are converting the Eastgate Shopping Centre into 2,800 homes—what was retail is being converted into mixed use with some entertainment. Lots of this great work is going on to address a move from template retail to this mixed use. We just want to avoid an even worse blunt instrument, in terms of conversions through prior approval.

**John Myers:** I wanted to agree with what Ojay said about fragmented ownership. That is obviously one of the critical problems on the high street. The landlords all have different incentives. They are not agreeing with each other. They are not co-ordinating. It is hard for the council to do that co-ordination on its own, especially with existing powers

We need to remember that there are so many other broken things. As I said, there is stamp duty, capital gains and the way the tax system makes consolidation harder under a single ownership. If you have single ownership, whether it is a council or a private large landowner, you will get better management and curation of that high street. I would suggest that if we want to really help and fix our high streets, we need to be giving councils more power to make that consolidation easier, whether it is stamp duty holidays or reducing the scope of business rates exemptions, and fixing the gaps and differences that drive people to say, "I am paying an enormous amount of business rates on these offices or this shop, but if I switched it to housing, the council tax would be much less." That is a broken system. The tax system should not be doing that and pushing people unnecessarily in one direction or the other.

Q73 **Andrew Lewer:** Will the use class E and the new permitted development rights boost economic recovery and help to revitalise our high streets and town centres, as the Government claim? You have touched on some of this already, but I wonder if you could focus on the distinction between use class E and the new PDRs. You have obviously talked a little bit about E to residential as well, but could you think about and focus on that E class particularly for me? Also, are you concerned about some of the uses that will now be caught out by the new use class E? Do you think any of those particularly need protecting?

**Ojay McDonald:** It is right to disassociate the two, because ATCM has different sentiments towards the two. In terms of the creation of this new





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use class E, almost like a super use class, which brings a number of commercial uses together, this is not just about the challenges of the pandemic itself; it is also about the challenges of an economy that is continually changing and putting stress on town centres. We think that there is a role for it.

There is a role for greater flexibility, in terms of what we use our commercial properties for. There was evidence there to suggest that the use class order system was creaking under its age anyway. I think about the types of businesses I have seen in previous years. I think there was a café in Altrincham, which was a normal café by day, that would do movie nights, have Bollywood evenings and become a bit of a curry house at night-time. We are seeing offices encompassing gyms to make sure workers have everything they need on site. We are seeing lots of innovation in the use of property and this splicing between the different strands of property uses.

The creation of use class E is probably a natural progression. I understand there may be some practical challenges for planners in managing that. For our town centres, it gives us an ability to better respond to the need to innovate, to make the most out of our commercial property. However, I disassociate that from the use of permitted development, which is about the creation of residential. That jump from commercial to residential is a very different use.

There is lots that John has said that I entirely agree with. There are issues around that fragmented property ownership, the tax system and the structural challenges, which make the use of permitted development much more difficult.

I want everybody to consider the current context we are in. We have a lot of good businesses that are now heavily indebted due to the pandemic. I have spoken to a small business. I think it just falls outside the use class E, but this is a learning that applies to many. In just the first nine months of the pandemic, they accumulated about £250,000 in debt. They estimated that, based on just that debt alone, it will take them about 10 years to pay that back, all being well. That is a challenge many businesses are facing.

Because of the moratorium on rent, a lot of that debt has made its way up the chain on to the property owners. In February, the *Financial Times* reported that around £4.2 billion of debt now sits with landlords, which they have to deal with. They have their own financial obligations to banks. Our fear is that this permitted development right exposes a lot of those businesses to eviction as soon as that is allowed, because landlords have their own financial pressures. For us, that could be decimating for the high street.

We are also really concerned about and fear for some of the low-yield commercial uses that sometimes can generate most of the footfall, and some of the properties that are used for commercial uses as well,



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because the value just will not be there. While we want more residents in our town centres, it has to be done properly. One of the ways we do it properly is making sure that the services that new residents need—employment, shops, post offices and so on—are all there and available for them on their doorstep.

We are concerned about the second bit, which is permitted development rights. Use class E is fine, but permitted development not so much.

**Q74 Andrew Lewer:** Thank you. That is a very useful distinction that you make there. I wonder, Matthew, whether you could reflect or expand upon that in a similar vein.

**Matthew Davis:** I completely agree with Ojay. Our main concern is conversion from class E to residential. It is in the uncontrolled manner that prior approval would allow, which we have already, I think, outlined in good detail on this call. One of the fundamental areas of disagreement we have with the proposals is the assumption that randomly introduced housing on a high street will lead to some kind of growth in footfall or economically for the area. We just do not see that. There are well-acknowledged concepts borne out by examples across the country where you start to break up that agglomeration of activity in town centres, it breaks up that experience and you get a spiral in the wrong direction.

I will raise a couple of other points with regard to class E that are really relevant to town centres as well. They are slightly different to what Ojay was talking about. One is the potential for change of use within class E. For example, if you think about gyms that you might have out of town, or office spaces with a larger footprint, there is a potential that some of those larger spaces could be converted to retail. That is a threat to town centres. We spent a long time trying to put right a preoccupation with excessive out-of-town retail.

One of the quirks of the pandemic is that retail parks have seen an uplift in footfall. They are above 2019 pre-pandemic levels temporarily. That is because they are managed locations. People can access in and out by car and perhaps feel safer to do that in the short term, where there has been a risk there. We really don't want to see conversion of some of those into more out-of-town retail, as strange as it may sound, as some local authorities are looking to go the other way. That is a concern as well.

The other area, if I think about the high-street context again for a minute, is cultural venues. They are really important parts of multifunctional mixes within town and city centres. Encouraging them to develop is even more complex and PDR does not provide a lot of protection for cultural venues. We have this temporary limit on change of use, because of Covid-19, until 2022, but we have lost a lot of really important cultural venues over the past 20 years to residential conversion and others.



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We don't see schemes elsewhere coming out of Government that account for that potential impact. The asset of community value scheme is not referenced in the *Planning for the Future* White Paper, but we don't think that provides the scale of protection to those real community hubs. To give one good example that ties these things together, I was reading over the weekend about Poole, a town that was featured in the *New York Times*, no less, on Friday. Legal & General there is running some supported and preferential rates for new entrants and for independent businesses on the high street. It has a new community arts space as one of the examples of a new entrant there, into a vacant unit that has been vacant for, I think, five or six years.

The potential really is there to transform the vitality and viability of these neglected high streets. We think that is going to come from the hard work and innovation of stakeholders coming together, under the guidance of local authorities, and not just letting people go off and convert properties for short-term gain.

**Andrew Lewer:** Finally, John, on this question of use class E and so on.

**John Myers:** I very much welcome the distinction between class E and the PDR rights. As Ojay said, the broader class E is generally not harmful and gives useful additional flexibility. We still have this problem of how you preserve your local fishmonger, for example. There was an incredible example in Cumbria in today's papers, where a community had got together, clubbed together and raised £200,000 to buy their local convenience shop in a village and keep their last remaining shop open. We have to remember that there are non-planning ways in which sometimes these things can be saved. We cannot necessarily completely count on the planning system to do all that we need.

I take the point that the number of homes involved is not enormous compared to the potential for other ways of producing more homes. We have to remember that every small office leased premises that is not really suitable for a business, converted into a home, is a home that somebody can live in. They are like pigeonholes. If you create another home, that is another home that somebody can live in. It is important to think of those people who are struggling to find housing, who may miss an opportunity or do not take a job because they cannot move to where they want or cannot afford to buy the home they want. It makes a small difference to all of them. We should not completely neglect the homes that are being created out of this.

On the class E point, it is a positive step generally. I would note that there is a possible slight concern that we have not been about to get to the bottom of in terms of conversion within class E to restaurant use, where you have flats above. I am hoping that somebody has looked at the question of how building regs will ensure that there is proper fireproofing between that restaurant space and the flats above. The last



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thing we want is another building regs-driven problem arising out of these changes.

**Andrew Lewer:** Your answers to Ian's previous question covered all of the three-months issue that I was going to deal with.

Q75 **Bob Blackman:** In your view, what is the impact of having these permitted development rights on both the quality and quantity of new housing?

**John Myers:** There is no doubt that these rights have had and will have a significant impact on the amount of new housing. Not everybody may be happy with that. As the Committee knows far better than I do, there are always trade-offs when it comes to looking at housing. Nothing is easy; nothing is cost-free. There is no doubt that the amount of homes has been increased. Some of those PDRs have just gone to allowing landowners to bypass commitments that they would otherwise have had to make through CIL or section 106.

Those sorts of distortions are a bad thing. If I understand correctly, the White Paper intends to remove that, so, if you convert something through PDR, you are still paying the same contribution that you would have done if you were going through a planning application. That is absolutely something that we need to fix. The prior approval requirements on elements like design and the effect on the surrounding area are also important. Moving towards more of those would give us a more granular approach that would definitely help.

The other big concern that gets put forward is size and lack of light. I can very much understand that, to someone who is lucky enough to be well housed in a spacious, three-bedroom, well-lit, semi-detached house or similar, looking at a small flat that has been created from PDR is very bad. I want to set aside here the slums that have been created, and that people have been forced into by the benefits system. I am just talking about where private renters have chosen to occupy a small flat from an office conversion. Generally, those private renters have chosen that small flat because that was the best option for them.

If we put down requirements in such a way that only half that number of homes can be created out of that building, half of those renters will be in places that are less good for them. That is a trade-off we have to make as a society. If we required that all new homes were mansions, we would not solve the housing crisis. There is no doubt that there have been some very unsatisfactory outcomes from some applications of PDR. We need to make that better, but we also need to remember that none of this is cost-free. There are no free lunches. There are no easy options here.

Q76 **Bob Blackman:** John, in your written evidence to us, you pointed out that some critics were "crying crocodile tears" over the quality. Is that what you mean, in terms of the size and the fact of people being forced into these types of units because of their levels of income?



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**John Myers:** I am absolutely not saying that is the case for most people. There are definitely instances we have come across where people have been concerned about the small size of the studios, or whatever, that have been built. If you dig down, sadly, I am sorry to say, a significant fraction of that concern has been about the type of people who are going to be moving in. I am not going to judge one way or the other on that aspect, but I don't think we should dress one thing up as the other.

**Bob Blackman:** Ojay, do you have a view on the quality and quantity of new housing provided by PDR?

**Ojay McDonald:** In terms of quantity, I don't think we can argue about the quantity of the housing coming forward. For me, it will be quality, and quality comes in two dimensions, some of which John has already covered. First, on the quality of housing, in terms of previous permitted development rights from office to residential, we have seen significant challenges with the quality of that housing coming forward. It is difficult to properly address those challenges with the proposals coming forward. For me, that would continue to be a concern.

We need that housing. I will stress this again: we welcome more housing in town centres, but let us make sure we have the right housing that meets the needs of the local population. Part of that is my second point in terms of the dimension. That is what type of services people have available to them as well on their doorstep. We have to remember that one of the difficult things with this permitted development right is that it is not just the quality of the housing itself; it is also the fact that some of this housing will be created by evicting certain businesses and losing certain services. Unfortunately, that is a difficult trade-off.

Q77 **Bob Blackman:** Is it not true that particularly flats above shops and other such facilities are often used for storage space? They are not actually used for business purposes at all. By bringing them back into use as accommodation, we would embrace and enliven the town and suburban centres, to enable people to live there and then utilise the shops and other facilities.

**Ojay McDonald:** I entirely agree with you. It would be great to see something like that coming forward, but the problem with permitted development rights is that they do not distinguish between that ground floor space and those upper floors. You will find that, if the landlord wants to, that ground floor space will all become residential. As Matt has said previously, you break up the character of a town centre. In our response to MHCLG's consultation on this, our suggestion was to keep permitted development for the upper floors of certain buildings, but let us protect that ground floor space, which might be of use to the community or businesses, and retain some of those services. For me, that makes perfect sense.

Q78 **Bob Blackman:** That would be a good trade-off. That would be something where you would say, "If you do the upper floors as residential



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and maintain the lower floors for business purposes, be they retail or other commercial developments, that would be fine." You would agree with that.

**Ojay McDonald:** We would accept that. It is not perfect. It is not brilliant, but we would accept that, given the current circumstances we find ourselves in and where the market is at the moment. Unfortunately, that is not what the current proposals allow. The current proposals mean we could just as easily lose ground floor space.

Q79 **Bob Blackman:** Matt, do you have a view on the quality and quantity of housing provided?

**Matthew Davis:** Again, I am in agreement with what Ojay said there. Bringing in the new standards is a welcome step. We do not have a lot of views on quality of housing, because we are not a body that looks in depth at that issue. In the research that came out recently, I think it was found that just over 20% of accommodation created through PDR would meet those new standards that are included in the proposals. There obviously is objectively an issue when you compare the proposed standards versus the existing stock of conversions.

I would agree with Ojay and you, Bob, on Living Over the Shop. That was a campaign previously. I know my colleague, Professor Cathy Parker, has talked to numerous committees about that being a good route. I would agree. It is the ground floor frontages that we really need to protect.

I would like to agree with John on the quantity, even though I quoted around 50,000 potential vacant retail units at the moment, going by some estimates. I agree that, even though that is nothing when you put it against year-on-year new builds—241,000 by the latest figures for 2019-20—it is a home for people. Whether it is a small number or not, it is a home for people. It is of value to those residents. I am not being flippant, but it does beg the question, "Why not plan them properly if they are so important and valued?" It is too blunt an instrument and we need to make sure we have the standards there as well.

Q80 **Ben Everitt:** This has been quite a constructive session, so I am going to continue in that vein and ask a very simple question to each one of our witnesses today. Thank you all for your time. John, what changes should the Government make to permitted development to make it better in the future?

**John Myers:** How long have you got? For us, the easiest way to give certainty, to give predictability and to add the homes that we need is to create rules on what local people can live with and have those set in advance. There is a problem with the existing PDR legislation. It does not let the Government write PDRs that are explicitly to local design rules and local other rules of that kind. That is why we have this slightly inelegant prior approval, which alludes to local design but does not explicitly say, "This is what should be permitted."



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Neighbourhood planning has obviously been incredibly popular. It has its challenges. The evidence base requirement is very tough. If you are an area with lots of retired professionals, it is much easier. If you are perhaps in a low-income area, it can be very difficult to get a neighbourhood plan through. Those sorts of approaches, led by councils or led by the community, to generate rules and design codes of what they find acceptable locally would be a very powerful way of enabling PD rights to be accepted there and for everybody to have clarity.

You can see examples. There is an example in south Tottenham in London, where they have set out a very clear code on what upward extensions can be allowed and it is done in a tasteful way that nobody can really object to. If you have that sort of certainty, also the homeowners themselves can see the reason to do it. It gives them the ability to extend their own homes, perhaps to add a granny flat or do what they need for their family. That can be very powerful. Getting the incentives and the rules on design right would take a lot of the problems away.

**Ben Everitt:** I will ask the same question to Matthew. Matthew, get your magic wand out.

**Matthew Davis:** There are a lot of good things in the proposals that we agree with. I know we have come on primarily today and had a go at conversion to housing from class E, which was our main concern. There are a lot of good streamlining processes, digitising them and incentivising investment, that are really vital. What is not in there and needs to be added is a consideration of commercial centres and how that plays into the planning process.

As we said in our evidence, we have to recognise the interconnections between housing in particular, commercial land use and the way that people live, work and use their different centres. That is changing so quickly and perhaps more quickly than the speed with which we can get back these commercial units, should they be turned into residential. We would propose a requirement for local planning authorities to, in some way, assess local need for employment land, as well as housing needs, and to ensure that is delivered.

Tangentially, we talked previously and at previous Select Committees about getting some kind of register of beneficial interests, rather than a register of ownership. That would be really important in enabling that collaborative and networked working in town centres to understand who owns what and how they can be brought together to revitalise places. That is something that could work through the planning framework. Also, there could perhaps be an increase in compulsory purchase order powers, where appropriate, for local planning authorities as well, where there is no recourse, buildings are really neglected, they want to do something new in the area and that is proving very difficult.



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There is a lot of good, but we need stronger protections and considerations for our centres, which are evolving very quickly. In many cases, they are proving resilient based on this multifunctionality that we think we have to protect.

**Ben Everitt:** Thank you very much. That was comprehensive. I hope you have left stuff for Ojay there. Ojay, you have the headline slot, so feel free to give us the album version.

**Ojay McDonald:** Here is the album version, or the B-side. I will talk about two key things I would like to see. We need to end property ownership fragmentation. That is critical. We are going to need innovation and collaboration to do this. From the discussions I have had with the property industry, it wants to see an end to this fragmentation. It is keen to see joint vehicles where it can collaborate with other property owners and stakeholders, and invest together in their town centres.

Ultimately, one of the benefits of ending property ownership fragmentation is that you then create that collaboration with key stakeholders. It gives you an opportunity to make sure that we can make changes quickly in our town centres, as the Government intend, and bring housing forward quickly, in a way that actually meets the needs of all the key stakeholders.

Some of the discussions we have had include things like property owner business improvement districts or maybe even enterprise zones for town centres, where you can have property owners, local authorities, community groups and business occupiers all sitting round the same table. If they can all agree a plan or vision for their town centre, why not give them the flexibility in terms of planning to get it done, rather than having to jump through the planning process? If all the key stakeholders are on board, let us get that change happening. Let us get it done. Those vehicles currently do not exist, so we really need to work with MHCLG to make sure it is bold, is ambitious and puts these new partnerships in place.

Secondly—I hate to come back to this and I know I have spoken about this at previous Select Committees. I am sure most MPs will know about this challenge from their own constituencies. That is business rates reform. John has already alluded to it a couple of times. It is one of the things that means return on investment from commercial property is very different from return on investment in terms of residential property. If we can have a better balance between the two, you will find that investment is not being distorted.

You could have more deregulation to make sure the change that happens is the right kind of change and not just distorted by the tax system. It is one of the reasons why we need the use class order system almost to act as a shield or barrier against bad decisions, because we have a bad tax system that really needs to change.





**Ben Everitt:** You were playing a greatest hits, Ojay. Your first answer sounded like a development corporation to me and your second one sounds like radical tax reform, which I think we are well up for as well. Thank you to all the witnesses.

Q81 **Ian Byrne:** This is a really quick one and I would appreciate a quick answer due to time. Who do you think will benefit the most from the changes to the permitted development rights?

**John Myers:** It is really hard to say. It is either going to be people who need housing or it could be the existing landowners, given the huge uplift in value. I would guess it is probably going to be the people who need housing, but I do not have those numbers.

**Matthew Davis:** You can probably guess, as we have been banging on about for this whole session. It is probably going to be landlords, and, yes, some homeowners, but a small percentage in a national context.

**Ojay McDonald:** Very few people will benefit. Most landlords will not actually be in favour of some of these changes, given the discussions I have had with many in the industry. Ultimately, if a landlord sees changes happening in an area they have invested in that are not in the best interests of the entire town centre, it undermines the value of their investment. There are actually very few people who benefit from this, apart from maybe a select few landlords, who will be those ones keen to flip property to residential.

**Chair:** Thank you to all our witnesses. That has been a really interesting session. There was some toing and froing but a lot of nuanced points have come out of there, which I think the Committee will be reflecting on. We are very grateful to you for coming to give evidence to us today. Thanks very much.

## Examination of witnesses

Witnesses: Dr Ben Clifford, Ben Southwood and Sarah Bevan.

**Chair:** We now move on to our second panel of witnesses.

**Bob Blackman:** Could I intrude and add my declaration of interest, which I did not do? I am a vice-president of the Local Government Association and I employ a councillor in my office.

**Chair:** Witnesses, will you say who you are and the organisation you are here to represent today?

**Dr Clifford:** I am Ben Clifford. I am an associate professor at the Bartlett School of Planning at UCL. I have led a number of research projects looking at permitted development for commercial to residential changes of use with my colleagues here at UCL.



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**Ben Southwood:** I am Ben Southwood. I am head of housing, transport and urban space at Policy Exchange, the think-tank.

**Sarah Bevan:** Good afternoon. I am Sarah Bevan, the programme director for planning and development at London First. We are a business membership organisation with members across all sectors. We have strong representation in the development industry.

Q82 **Chair:** Thank you all for coming this afternoon. Different members of the Committee will ask particular questions. They may address them to a particular one of the witnesses or it may be open to any of you to come in and answer the question, so take each question as it comes. The first one is probably not a hard one to predict. What role should permitted development rights play in the planning system? If you agree with what someone else has said, you can just say "I agree", although I expect on the first question we may have some different views put to us.

**Dr Clifford:** Permitted development rights have existed as long as we have had our statutory system, since 1948. They work well for minor development: householders, temporary development, very minor development like street furniture. Some of the developments that are change of use within the commercial use classes can usefully be dealt with by permitted development. However, it should not have a role for anything that is going to create new dwellings.

The various extensions since 2013 to allow this have not worked well. They have led to a race to the bottom in terms of housing quality, issues around resourcing of infrastructure and local authorities, and issues around the protection of employment space. While there have been some increased and welcome protections from Government, these do not cover all the concerns that we found through our research. It does not represent a proactive approach that involves communities and allows local planning authorities to have a proper role in the creation of new residences in their areas. While it has a welcome role for minor developments, I would argue that permitted development should not have a role for change of use to residential.

Q83 **Chair:** Ben Southwood, you may have a different view to that.

**Ben Southwood:** I agree with a lot of what Dr Clifford said. You could even say that something like permitted development existed before 1948, because, under the pre-planning system development control regime, almost all development was a sort of permitted development. Almost all development was dealt with in a regulatory fashion, rather than in a case-by-case discretionary fashion. Arguably, it has an even deeper role than what he said.

I agree that the point of permitted development, in my view, is to handle things that have low externalities, things like extensions that cannot be seen by anyone else and the street furniture that he talked about. Permitted development is a logical way to deal with things like that. In



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terms of other things, I agree that there are some cases where externalities are created with change of use. I suspect that that does not mean we should not use permitted development in any of these cases, but perhaps that we should create systems such that they do not create so many externalities or there is some constraint on how they can be used, or that there are some, say, taxes.

As an example, if a building changes use and ends up paying less tax due to the different burden you bear in this new use, it might be reasonable to equalise that so that councils do not lose out when you shift from business rates, which is at a higher rate, towards council tax, which usually charges less for the same building. There are things you might want to improve with how permitted development currently exists and constantly evolves. As Dr Clifford said, they have existed since 1948, but they should play some role in the planning system.

**Q84 Chair:** We will probably come on to future changes in due course. Sarah, do you want to follow up on the same question?

**Sarah Bevan:** I agree with the point that PDRs have been used very effectively in the past for small-scale alterations to single dwellings and so on. That type of work could be increased. It is a good way, when resources are stretched in local planning departments, to free up officer time for forward planning and major applications that are genuinely going to deliver significant housing. Our concerns are with the increasing widespread use of change of use, which we do not support.

**Q85 Mohammad Yasin:** What role should local authorities play in planning development and shaping communities, and what impact does permitted development have on their ability to do so?

**Dr Clifford:** Local authorities should play a very central and proactive role in planning new development, in thinking about where housing should go and the supporting infrastructure for it, and thinking about the town centres and having lively, valued commercial and community spaces. Permitted development is the opposite of anything that is planned. It is very reactive; it is very minimal; it is very deregulatory. It is just taking away the ability of local authorities to play that proactive role that a well-resourced local authority should, in my view, be able to play.

If we think about the new class E, it is very hard to think of any uses in a typical town centre that are not class E, which then calls into question what role a local plan has, and what role there is for any local policies or supplementary planning documents that might exist around management and revitalisation of town centres.

Similarly, when we are thinking about conversions to residential, it is very reactive through permitted development. Local authorities are not on the front foot here, and they could be. If we look at the Netherlands, as we did in our research, it had a similar issue with lots of office vacancy housing demand, but rather than deregulation, the approach of



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Government there was to invite local authorities to proactively come up with a vision, spatially, of where they wanted to see these conversions, and proper design guidance to govern it.

We could have done the same here. We actually had a policy, in the National Policy Planning Framework, encouraging this type of adaptive reuse, which was introduced in 2012, but never really got tested because office-to-resi came in in 2013. There should be a proactive role for well-resourced local authorities, and there could be, but it has been undermined through these successive permitted development extensions.

**Sarah Bevan:** The problem is that, at the moment, we just do not know what the long-term effects of the pandemic will be. This is a very short-termist view. Yes, there will be vacancies, but we just don't know to what extent and in which types of subsectors of class E. It is disappointing that there were already local authorities that were proactively looking to shrink their town centres and their high streets, curate a smaller, more vibrant core and prioritise surplus sites for residential, but that opportunity to plan longer term has now been taken out of their hands.

You then end up with what is left being diluted because you have residential being pepper-potted throughout, which undermines the entire centre longer-term, whereas if local authorities were given the power to curate a smaller centre or high street it would have a much better chance of long-term success.

**Ben Southwood:** Obviously, there is a reason why we do planning. The reason why we do planning is largely that, if you had a pure market system where everyone had to bid for the uses of every piece of land and it could be any possible use, you might put polluting factories in the city centre if that was most profitable for you, but it might not be most profitable for the community. Everyone agrees that we need to have a body that guides locations of things and thinks about where suitable things could go.

Does this mean that there should be no changing of any use between anything without the permission of this authority? We need to strike a balance between this completely unplanned system and having some flexibility in the system for people to decide in the short run, relatively quickly, whether something is a more effective use of an area.

As Sarah pointed out, there are lots of high streets that we are now deciding we still want to keep going and we still value them very much, but they probably do not need to use the same amount of commercial space as they have been doing for the last 20 years. In fact, they would be more effective high streets without that commercial space. We also tend to agree that it might be useful to turn some of that commercial space into housing.

We all agree to some extent with the overall trajectory here. The question is getting there. The trade-off seems to be that we get there



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more quickly with a permitted development situation, so we deliver tens of thousands of units in this way. We can discuss whether the quality has been good enough later, but in terms of actual sheer numbers we deliver quite a few, and in lots of places near businesses where they would end up helping revitalise the street.

Speed is pretty good; however, as Sarah and Ben pointed out, it might not be in the perfect places. You might not get this core street with these being at the ends of the street. There are reasons why high streets have evolved in their particular way over thousands of years of history. Hotelling's law, for example, states that the most efficient site for businesses is to be next to one another.

You might have a trade-off between the perfect high street and speed, because we all know in practice, although we have this goal of seamless transition, if it has to go through the plan system, it may take several years to do it. It is not a costless trade-off to delay it that long. I know lots of commercial buildings that I have seen with no tenant for a very long time. We all know these; we see them in our daily life. I am not saying that is always the fault of the planning system; I am just saying that speed versus perfection is a trade-off that we all think is okay to make in many contexts, and this might be one of them in some cases.

**Q86** **Mohammad Yasin:** Ben, if I stay with you, you have mentioned high streets. We have been told that, if businesses in a high street want to thrive and survive, they need to become smaller, with commercial activities in the centre; ground floor commercial premises can stay and maintain their businesses there; and housing is needed above and around that. Do you agree? If so, do you think the market can do this on its own, or would it need to be at least partly planned?

**Ben Southwood:** Historically, we have seen cases where it has just arisen organically, but I would not take that risk. I agree with some function for planning to make that happen. That does not mean we need to end change of use permitted development completely. My reason is that, for various economic consideration reasons, the core commercial that we most want to keep as commercial is typically the type that will result. That is not completely true, which means we have to think about the whole system. That is why we are having these kinds of meetings. There is a perfection versus speed trade-off. We will not get the perfect answer with a system where people always have the freedom to do what they like with their own stuff.

One thing I wanted to mention is that PD will not be the only thing that will hold us back from getting to that point. Most of the best high streets have single owners, for a good reason. If you think of Leadenhall Market, Spitalfields Market or the new development near the station in Bath, there are economic reasons why this is the case. Some shops are particularly good for bringing people in, some shops are the ones that generate the most profits, and other businesses are anchors in other ways. Typically, in America, malls will charge lower rents to certain



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shops, which are flagships, and higher rents to other shops, which make bigger profits, and so on.

There will be multiple things. If this were a talk just about high streets, we would have lots of stuff, which I am sure the other panellists would bring in as well, that we could do in the long run to improve them. With PD, there is a trade-off between speed and delivering lots of housing at scale, flexibility and adapting to changes relatively quickly, and the perfect “design a high street, make it exactly as you want and get there.”

**Q87** **Mohammad Yasin:** We have been told that if businesses in high streets want to survive and thrive, they need to become smaller—they can carry on their business on the ground floor, but above the business or around it they need to find housing places for people to live. Sarah, do you agree? If so, do you think the market can do this on its own, or does it need to be at least partly planned?

**Sarah Bevan:** I do not really understand the point that businesses need to be smaller to thrive, if I am honest.

**Q88** **Mohammad Yasin:** We have been told that they need housing above them, and if they want to thrive they can have a smaller area; they can create the residential units above their businesses; and they can stay on the ground floor.

**Chair:** It is also about the size of the collective business activity in a town or city centre. With Covid and long-term issues around shopping online, there is just less need for that amount of commercial space. It is how you go about reducing it, as Mohammad says. Do you do it by taking the upper floors out or taking some businesses out altogether?

**Sarah Bevan:** High streets and town centres are already evolving. Yes, there is going to be less demand for traditional retail, but there is already an emerging trade for experiential retail and much more leisure and cultural uses. The dynamic is going to change and activity will be spread much more throughout the day, because it will not just be your 9-to-5 retail. There will be more evening activities.

Yes, if there is surplus space on upper floors, residential is an obvious choice and would certainly help in increasing housing supply, but you do not want to undermine the agglomeration of activity. There may be destination activities in a centre, but then other businesses thrive from that footfall, comparing retail goods. Also, you pop down to a centre because you need the chemist, but you then pop in and buy a loaf of bread you were not intending to. That agglomeration of activity gets watered down when you start pepper-potting residential and ground floor.

**Q89** **Mohammad Yasin:** Can the market produce the right mix of housing in an area, or does this also need to be planned? A common criticism of permitted development is that it creates too many small units, with not enough for a family to live.



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**Dr Clifford:** Some sort of curation is needed, just as with the previous question. I agree with Ben Southwood about the importance of land ownership and other factors beyond planning. If we are sticking with planning, you need some sort of curation that looks at the uses to create a lively high street. You also need a role for planning to look at the mix of dwellings. In our research, we found a complete predominance in permitted development of studios and one-beds, which meets some need but it does not always match to local housing need. Family housing has particularly often been missed out.

We have seen examples where there has been overcrowding, with families in studios and one-beds. We saw examples of that during our research. There is a complete divorce of profit-maximised housing as opposed to genuine local need. That is one of the problems with permitted development, and brings us back to the need for a curating role in all of this from proactive planning.

**Ben Southwood:** I have a slightly different view on that one. I can see situations where you would want to plan what kind of sizes of house come out. When it comes to permitted development conversions, the big controversy—we all know this; I am telling everyone how to suck eggs—was the size of properties being too small. But we know now that permitted development going forward will not have quite the same problem because minimum space standards will apply from this year or next year to permitted development conversions. We will not have quite that same problem, but that was obviously the big issue.

In terms of mix, probably the reason why PD generates so many studios and one-bedroom apartments is that there is such an extreme scarcity of them on the market. I have been a 24-year-old person, and pretty much your only option for something you can afford is typically a bedroom in an HMO, which is not really an optimal way of living. Many people would like to live alone. Obviously, the ideal situation is that we have such an abundance of housing that we can all afford a nice big apartment on our own, if we want to. I like to live with people, but lots of people like to live alone. The situation we are in has lots of difficult edges to it, and delivering that has proven very different, despite lots of people trying.

Therefore, it is the best of a bad set of options, in some cases, having a small studio. I know that lots of people see it as the best option out of the ones they have. In an ideal world, I think we would all agree that would not be their best option and they would have an even better option, but if it is in fact their best option I am a bit more sanguine about allowing a mix of sizes and types—above regulation standards; regulatory standards are very important—but once we set the minimum, letting the adjustment for the sizes and types be people's decisions, based on the choices and costs available to them, that is something I am relaxed about.



**Sarah Bevan:** I am afraid I disagree with the point about smaller units. I worked as an in-house planner for a developer for several years, and I know first-hand that developers will always choose to deliver smaller units because they get optimum return. They will always provide the minimum number of family units that they need to do to meet the local plan policy requirements. Local authority housing need studies repeatedly show that there is a huge unmet need for family housing. The problem is that the types of buildings that we are talking about here that are likely to be converted are not necessarily going to be suitable for families because they cannot provide suitable private amenity space. This is a real oversight in terms of the new prior approval requirements. There needs to be some consideration given to unit mix.

**Q90 Mohammad Yasin:** Sarah, in your view, how important are article 4 directions? Do you believe the Government should proceed with their plan to restrict their use?

**Sarah Bevan:** No, I don't. I feel very strongly about article 4 directions, as do our members. The proposals to restrict their use really compound the issues about the commercial to residential change of use, taking the ability away from local authorities to control in certain areas, be it employment locations that they want to protect or strong commercial cores. Certain sectors feel strongly that article 4 directions should remain, and that their scope should remain as existing at the moment.

In particular, the test in the recent consultation that you would need to meet, that it is of national significance, is incredibly onerous. There are lots of subregional office locations in London, for example, that are very important. If you applied the national test to London, it would really only be the CAZ that could be subject to an article 4 direction, whereas you have other very important employment locations in subregions.

**Dr Clifford:** I agree with Sarah. Article 4 directions are a good example of localism. If we are going to have these national rights, there is the ability for local authorities to exert some control. I don't think they have been misused. In our 2020 report for the Ministry we only found 57 from 150-odd planning authorities, and those 57 do not ever cover the whole local authority area; they just cover a particular area within the local authority. So I think that article 4 directions are quite a useful planning tool. This proposed wording is very concerning. The test would be difficult for a lot of local authorities to meet, just as we face a cliff edge next year when their existing article 4s will fall away because of the new class E to residential right.

**Q91 Mary Robinson:** High streets have been very much in the mind of this Committee as we move out of the pandemic, bearing in mind the importance of ensuring that they are healthy and vibrant. Will the new class E and the new PDRs boost economic recovery and help to revitalise our high streets and town centres, as the Government claim? We know that the Government are particularly thinking about the increased footfall, which will be beneficial. In your answers, will you distinguish





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between the new class E and the new PDRs, particularly with respect to permitting conversion from E to residential?

**Ben Southwood:** Broadly, my expectation is that they would help a bit. My basic grounding for this idea in general is the same one that you just said. Broadly, one thing we will want is having enough people nearby to sustain the high street. It is just true, as we all know, that high streets, and commercial centres in general, rely on having certain numbers of people nearby. They really need to be quite nearby. For me, there is something like a 15-minute walk distance where I probably will not go. I think almost everyone lives by that for a spur-of-the-moment decision. You might drive to a shopping mall on the weekends, or make a trip of something, but your high street, I think, needs not just that kind of traffic, but also the spur-of-the-moment decision. Therefore, anything that is likely to let businesses shift between uses more quickly, to get to the ones that are more profitable and that people are now choosing to spend their time in, will help.

Sarah made some really good points earlier on experiential businesses. One of my best friends runs a VR company in east London called OTHERWORLD. That is exactly the kind of company that I would expect to take up the spots from the shops that maybe—I buy stuff from Amazon now; instead of that I will be going there. More flexible and quicker changes there will help, but getting more people there will also help.

The concern that the other panellists have about whether the high street will be the perfect shape—pepper-potting is a good point; I think we all agree that is not the ideal outcome. We would rather have the ends of the high streets shortened a little bit and becoming housing, so that there are more customers to go to the other businesses, but we still have that coherent high street in the middle. I think it is reasonable to be concerned if that is not happening, but my prediction is that it will add to growth a little bit, help us recover a little bit, and help us adapt flexibly and quickly. As I said before, there is slight trade-off with perfect outcomes and the speed and flexibility at which we do them. In taking a side on that trade-off, it is reasonable to take different points along that line.

**Dr Clifford:** I would distinguish between class E generally and the ability to change business uses and the conversion to residential. I can understand the desire for increased flexibility for businesses; some of that is welcome and will have economic benefit. But it is the ability to convert to residential that I think is very concerning for the future of high streets. The Government's proposals around this seem to imply that it would help the high street and increase footfall. I don't agree at all. If you end up with a high street where the majority has gone to residential, it is no longer a high street. You are then losing out on footfall. You are losing out on the sort of agglomeration that has already been mentioned.



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It is very hard to convert things back from residential compared to converting from business to residential.

During our research for the RICS, we also saw examples of occupied businesses where, because of the high value of residential, landlords kicked out businesses and businesses struggled to find suitable alternative accommodation. We saw that in particular, for example, in Camden, where the liveability of somewhere like Camden is very much around this mix of uses and the agglomeration of creative industries in that case. Once these businesses have lost their premises, it is really quite damaging economically.

Q92 **Mary Robinson:** Ben, you mentioned Camden. Sometimes a criticism is made that this seems a bit London-centric. In other words, the problems that are concentrated on are a bit London-centric, ignoring the other parts of the country where an old building that has previously been used as a mill or previously been offices, and not been occupied for some time, could come into residential use. Do you recognise that criticism?

**Dr Clifford:** I recognise the slight difference in some of the issues across the country, but actually we found poor-quality residential across the country. Through my research, I have always looked at other case studies beyond just London. My answer to that would really be that a conversion to residential of a vacant premises can be positive, can lead to regeneration—I am not opposed to adaptive reuse in those situations at all—but that can be done in a plan-led way through the planning system. We always had conversions when we had to have full planning permission before permitted development. We still could now. So do you need a permitted development to do this, or could you support that kind of adaptive reuse in a more plan-led way through the planning system, requiring planning permission, but with things like supportive policies in the NPPF, in local plans and so on?

Q93 **Mary Robinson:** Sarah, do you see these new changes as being something positive for high streets and local economies? Is there a potential good news story there?

**Sarah Bevan:** It is really important to consider the class E issue and the PDR issue very separately. The introduction of class E is a really positive move. It is something that we campaigned for long before the pandemic—a general town centre use class. Giving landlords that flexibility to flip between different town centre uses really helps reduce vacancies, particularly with the increasing demand for short-term lets and pop-ups. Landlords were previously deterred from supporting those types of shorter-term tenancies because they were more hassle than they were worth, quite frankly. It might take longer to get a change of use planning permission than the tenant actually wanted to be on site. So I think it is really positive. It means that, even though uses might change a lot, you are still maintaining an active frontage and you are still maintaining footfall. We fully support class E.



The problem with the permitted development right is, as I said before, that pepper-potting of residential and diluting the vibrancy and commercial success. Going back to the mill example that you quoted, there is no reason why that property could not still be converted to residential; it would just need to go through the conventional planning application process. The NPPF and NPPG can be updated to strengthen the support that generally applications that come forward for change of use to residential should be supported. But at least it means that, where there is going to be significant harm caused to an employment location or to a neighbouring commercial use, those issues are properly considered, and development contributions are collected and so on. There is absolutely no reason why those changes of use still cannot happen; it just means that they are going through the conventional planning system instead.

When I worked as a planning consultant, we used to work on endless applications for change of use from commercial to residential. They have always happened. Permitted development rights has not introduced something new; it just means that they were better controlled and happened in the right places.

**Q94 Mary Robinson:** Can I follow on with that? The new use class is designed to enable business to respond more quickly to market demand. From your answer, that is a positive that could be taken from it. Was the previous use class system, then, hindering business growth? What is the fault that this is addressing? Were there previous hindrances to growth in the way that the previous use class system operated?

**Sarah Bevan:** The situation in the example that I gave was happening all over London in particular, where landlords were deterred from short-term tenancies because of the time and money that they would need to invest, whereas now they can do that and quickly move from one tenant to another. It is just a lot more flexible now. These are all issues that were happening already before the pandemic. I know your question was specifically about boosting recovery, but a lot of these issues are in response to the structural changes that were already happening in the retail sector, as well as the reduced length of tenancies. Both of those issues were already happening, and I think PDR is a very short-termist view in terms of recovery. It is not helping the economy longer-term.

**Dr Clifford:** I completely agree with what Sarah said there.

**Ben Southwood:** I agree with a lot of what has been said about what the perfect situation would be. Planning is like designing your perfect city: you are on "SimCity"; you get to draw out the things and make everything go where you want, and that is the optimal scenario. We all agree what the optimal scenario would be, but in the real world there are also time costs of things taking a long time and processes being expensive, being laborious to go through and stopping stuff from happening. There is therefore a trade-off to be made between getting the perfect outcomes and getting better outcomes quicker.



In terms of flexibly adjusting to things, I don't think anyone would deny that businesses near more customers and people living nearby do better. We all agree with that. We also agree that we do not necessarily want those customers in the middle of the high streets; we want them at the ends of the high streets, behind the high streets or wherever it is—around the high streets. Getting that perfectly to happen is a complicated question. Part of the solution is providing a quick, easy, flexible route for people to get there, even if that comes at some cost of perfection of the optimal result.

Q95 **Mary Robinson:** Is perfection the enemy of the good in this?

**Sarah Bevan:** I just wanted to make the point about land values. Class E already gives landlords significant scope in terms of potential tenants, but of course they will be lured by higher land values, and in most locations residential is always going to be a much higher land value than commercial. Although PDR is a well-intended policy to reduce vacancy levels, of course viable businesses are also going to be ousted, and in successful commercial locations, it may be that for some landlords residential is more favourable.

Q96 **Mary Robinson:** A vacancy of three continuous months would bring it into play. Sarah, are there any uses that you are particularly concerned about? Some, like pubs and restaurants, have been protected. Would you add any other uses to that list of protected uses?

**Sarah Bevan:** When we were campaigning for a general town centre use class, we did not intend for medical centres to be included. I was surprised at that inclusion.

**Dr Clifford:** I was surprised at some of the D1 use classes being included in class E. That went further than I thought it would.

Q97 **Mary Robinson:** Will the three-month vacancy provision protect those successful businesses that you were speaking about earlier?

**Dr Clifford:** Not at all, no. This is a time period that is easily circumvented. I think you can artificially create a vacancy, as a landlord. Three months is not very long to have to wait in order to do that. There are plenty of people who would sit that period out with a longer-term view to conversion to residential.

**Ben Southwood:** Sarah made an interesting and correct point that, in some cases, residential would be more valuable, so even when the business is in fact not failing, but is just not generating as much money as residential would, they will prefer to rent to the residential tenant. In some cases, this business is creating huge spillover benefits to the local area, so we definitely do not want it to ever close. That is not a completely general truth. Living in houses, having nicer houses or having more houses available so more people can live near good jobs—all the reasons why we think it is important to build more homes—there are lots of different reasons, but this is not the place for them; those reasons—



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getting near to jobs, having more space for your family, all those sorts of things—are actually important. Again, it is a trade-off. If it is in fact the case that people want to pay more to have that as housing, that is not a completely conclusive argument, but it is one argument in favour of letting it become housing. There might be reasons why you should reject that, but that is something you should be taking into account and not saying it is just a bad thing. It is actually an interesting trade-off.

**Q98 Chair:** In our previous panel, Matthew Davis raised the point that one of the impacts on use class E has been that it is apparently now possible, if you have an out-of-town office block, to convert that into a shopping unit or number of units, and effectively bypass the sequential test, which is there and designed to protect town and city centres. Have you any thoughts on that?

**Dr Clifford:** Yes, that would be correct. There is a potential route here that you are undermining “town centre first” policies. It is not central to my own research and expertise, but it is a concern.

**Sarah Bevan:** I agree. It is too soon to be able to quote examples, but it is certainly an easy route to circumvent the “town centre first” policies.

**Ben Southwood:** If it did turn out that this was a big outcome of it, that might be something that we would end up worrying about. As Sarah says, it is too soon to be sure exactly what the outcome would be. You would probably expect that, in these cases, housing would be a more preferred use than a retail park, but that is not certain to be true.

**Q99 Bob Blackman:** One of the things we are concerned about is how PDR affects both the quality and quantity of new housing. I wonder whether any of our witnesses have a view on the quality and quantity of housing provided under the PDRs.

**Ben Southwood:** We all know the things that people have said about the poor size and light of some PDR developments—or even many. I don’t know the exact stats on how many are considered by objectors to be bad. It is reasonable, therefore, that we have started to apply standards that we usually apply to houses to those.

**Q100 Bob Blackman:** Just to be clear, you would welcome the improvements that have been made to the PDR regulations on space and light.

**Ben Southwood:** Yes; I think it is sensible. In an ideal world, as I said a bit earlier, if a flat was offered that was 18 square metres and did not have any lights to the outside, no one would want to buy it, because no one would be in a situation where they considered that to be their best option. That would be the ideal world situation. The ideal is that we would not even need to impose standards on this.

If you were offered a flat that size, somewhere where land values were very low, no one would buy it, and that would not come on to the market. It is only in places where space is extremely scarce, like in



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Croydon city centre perhaps, where it is sensible to offer this kind of flat—from a business perspective, I mean. That is, in itself, lamentable. If we could solve that, it would be even better. But let's say we can't solve that, then it makes sense and is reasonable to impose basic standards on the flats, the reason being that people in general think that no one should have to live like that. Even if they consider it to be their best option, they should not be allowed to choose that as their best option, because it feels bad to us. That is fair enough. That is basic; it is what we do in regulation. That is fine.

But once we put those standards in, developers basically face the same metric: "We are trying to deliver houses that will make us the most money. Usually doing that is a question of delivering the ones that the market most wants." There was a point earlier about needs assessments. Needs assessments are quite important; that is one of the tools we should be using. Another tool we should be using is the shapes and sizes that you split it into. The one that is generating a lot of money is one of the other considerations. We might sometimes think that there are other reasons why we don't want to go the pure profit route, because our area has a particular character and we want to preserve that character by preserving the type of homes that are common in the area. That is why there are the reasonable concerns that people were pointing out earlier.

Sorry; I have said a lot of different things here. All I wanted to do was say that one thing we should consider is that profitability does go with what people are demanding, to some extent. Needs go with it to another extent. Those are both important considerations.

Q101 **Bob Blackman:** So it is demand-led, effectively.

**Ben Southwood:** Demand is one important consideration. We should not completely dismiss it. That is my main point, really.

**Bob Blackman:** Sarah?

**Sarah Bevan:** Ben Clifford is our expert in this area, so I will be brief. If the Government are committed to PDR for the long term, it is absolutely paramount that we deliver higher-quality accommodation through PDR, and we support the controls that have been introduced. It is welcome that a prior approval now has to consider natural daylight and meet space standards, but the problem is that there is no definition of what that natural daylight should be. Because if the local authority has a local plan policy with expectations set out, that is irrelevant, because this is a prior approval application, that does not need to comply with the local plan. The BRE guidelines are generally irrelevant in this situation, so more guidance is needed as to what expectations are.

Q102 **Bob Blackman:** Should we add to the prior approval process with some other conditions?

**Sarah Bevan:** There should be one on unit mix, but what is more important is—



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Q103 **Bob Blackman:** I understand what you mean by unit mix, but there will be other people watching. What do you mean by unit mix?

**Sarah Bevan:** The size of the dwellings, so that they are not all studios and one-beds.

Q104 **Bob Blackman:** Yes, that is what I thought. I just wanted you to clarify that.

**Sarah Bevan:** So I think that would be a welcome addition. In terms of the conditions that have already been applied, more guidance is needed as to what expectations are to deliver good-quality housing. The problem is that we have had a housing crisis for so many years that this is not just demand-led. People are forced to accept accommodation that is below the standard of what they should accept because there is not enough choice or enough supply out there. That is fundamentally the problem.

To make sure that we are delivering accommodation that is of an adequate quality, we need to define that. "Adequate daylight" is just too loose as terminology. It needs to be better defined, as does the condition about considering the impact on the character of a conservation area. Again, the system that is being introduced at the moment is just going to be dependent on case law. The lawyers will have a field day again, because it is just not adequately defined.

**Dr Clifford:** In relation to quantity, I think the contribution of permitted development has often been overstated. As has been said, we always used to get change of use. In 2006-07, 20,000 new housing units were created in England through change of use through full planning permission. Particularly outside London, if we look at some of the weaker housing markets, there has definitely been a diversion from new build to change of use. I would estimate that about two-thirds of the 72,000 that have come through permitted development would have been created anyway if full planning permission had been required. We could have probably increased that amount through other means rather than permitted development, with more proactive encouragement and support for this type of development activity.

Q105 **Bob Blackman:** Do you think, in those circumstances, that different rules should operate depending on the availability of housing?

**Dr Clifford:** No, there should be some basic levels of safeguarding everywhere. This is a concern that should go everywhere. In terms of trying to encourage this reuse, depending on local need, depending on the local characteristics of buildings, you could adopt things like local development orders, which are allowing permitted development but locally defined. I think that is a much better way than nationally top-down.

In terms of the quality piece, this has been a key focus for my research. The issues are very real. I know a previous witness talked about crocodile tears, but these are genuine concerns for people who often do not have a



choice as to where they are living. That is not just temporary housing accommodation tenants; it is also many, many renters, because we have this housing crisis. Space standards are a big concern, which have been addressed. Adequate natural light does not actually mean a window. I have already seen a building upwards permitted development scheme in Horsham where the developer was proposing skylights and lightwells to give natural light—no actual window that you could look out of, which I think is not very good for people’s mental health and wellbeing.

There are other issues around outdoor space and play space provision, if you are going to have larger developments with lots of children; the mix of units, as Sarah mentioned; the ability to apply accessibility regulations; some of the design features and public realm features you have in a local plan; the location of schemes in terms of accessibility to services and their sustainability.

Finally, I would mention safety. People will often say that these schemes must comply with building regulations, which they must, but that system doesn’t always work very well at the moment. What we have created with permitted development conversions is a sort of deregulated space where the local authority’s awareness is quite low.

For the very first scheme I ever went to, when I started doing this research, I had a floor plan submitted to the local council that showed four units. The landlord happened to be there, saw me looking at his building and said, “Oh, I have created six new flats from this former office,” because there was very little awareness from local authorities about conditions that you should apply to these schemes, whether you would be notified as the local authority when someone has even commenced these works, and whether they are even going to comply with the floor plans they have submitted. There is quite a wide range of housing quality concerns, only some of which have been addressed through recent Government amendments.

**Chair:** We now move on to the issue of what contributions developers who engage in permitted development should have to pay.

Q106 **Brendan Clarke-Smith:** Good afternoon, everybody. It is generally agreed by critics or supporters that permitted development should not be exempt from developer contributions. Does the Government’s proposed new infrastructure levy go far enough with that?

**Dr Clifford:** The infrastructure levy proposed in the White Paper goes some way to addressing this. It is a very real concern. While a conversion to residential might not have so much impact on things like physical infrastructure, the effect of these new residences on social and green infrastructure in particular can be quite significant. While some things like schools and hospitals may eventually catch up through general taxation, things like parks, children’s play spaces and community facilities, which are much more locally funded, are just not likely to get funded at all if we





don't have a proper system of developer contributions to apply here. It is similar for affordable housing provision.

The Government's proposals in the White Paper are welcome. My key concern would be, of course, what rate the infrastructure levy is being charged at, how long it is going to be, and how many more permitted development conversions to residential we might see before we actually have that implemented.

**Q107 Brendan Clarke-Smith:** Following on from that, you said in your written evidence that it was not clear if permitted development was exempt from section 106, and that some London authorities had actually managed to agree section 106 payments with developers. Can you elaborate on that? Has there been some confusion in the sector?

**Dr Clifford:** Yes. It is generally held that they are not liable, and that the nature of a national permitted development right means that you probably cannot charge a section 106. However, we found that, in relation to things that came into the purview of prior approval—so essentially it was to do with minor highways issues, cycle parking and things like that—there had been some section 106 moneys gained by some London boroughs. That was perhaps partly because the desire of the developer to do the schemes was very high; the local authorities were very quick to act within that 56-day prior approval period, so had managed to make it work, but most of the local authorities I have spoken to did not feel that it was an option for them.

**Brendan Clarke-Smith:** Thank you for elaborating on that. Sarah, have you anything to add?

**Sarah Bevan:** You asked about the infrastructure levy proposal, which I think in principle is to be welcomed. The problem is that it was the least developed part of the White Paper, in what was quite a sketchy White Paper, and there is always a danger that it will be watered down. We just do not have any certainty as to the form that will come forward and the timing of that. The worry is that, in the meantime, we are missing out on so many potential affordable homes; we are missing out on developer contributions to physical and social infrastructure. Those costs still have to be met, and they are having to be met by the developers who are going through the conventional planning process. They are having to sub these PDR schemes, which just isn't fair.

There is another point to consider. Most of our developer members actually support the fact that they can use developer obligations to get communities to support development. It is a really important tool to say to a community, "We are delivering this in your community, but look: we are contributing an extra GP to your local surgery, or we are adding a bus stop that you will benefit from." Without having those visible benefits, it can really have a detrimental impact on public trust in development.



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**Ben Southwood:** My instinct is similar to Dr Clifford's. It probably makes sense, under whatever system we go for, for permitted development to pay some contribution, in the same way that, when housing is built, we have them pay for contributions because that is an externality cost on the local community, and partly for the reasons that Sarah mentioned about buying in the local community, and making them less oppositional or even supporting development. This could have the same effect, partly for that reason and the spillover costs on people nearby.

However, as both the other panellists said, the infrastructure costs are usually much lower with permitted development conversions. As suggested in the White Paper, it is probably appropriate for the levy to be set at a lower rate for permitted development. It might not need to be; we don't know exactly where it will end up. If it is a 20% uplift levy, if you are already doing it strictly on uplift, it might not need to be at the lower amount to work, whereas if it is levied in some other way it might need to be a lower amount. If it is on assumed uplift, it might need to be a lower levy, for the obvious reasons that I just mentioned.

I broadly agree that there should be infrastructure contributions. A reduced rate levy on PD conversions would be a sensible way of doing it, which might go some way to dealing with the concerns that local planners have about the extra costs it imposes on them.

Q108 **Ben Everitt:** We have a minute each. What would you do to make PDR better?

**Sarah Bevan:** Article 4 directions are really important, maintaining the system that we have, giving local authorities access still to use those and not proceeding with the proposed changes. So is updating the guidance on the practical application of the new conditions, particularly around what constitutes adequate daylight levels and impact on conservation areas.

**Dr Clifford:** Anything that creates a new dwelling should really need planning permission, where you can take a holistic view and not be constrained to a checklist that is currently very inadequate. Knowing that the Government might not change that, I would support still allowing article 4 directions to be made; amending the CIL regulations if the infrastructure levy is going to be very slow, so they will be included in that; clarifying the adequate natural light requirements; requiring outdoor space and amenity space for 10 or more unit schemes; requiring play space for children on similarly sized schemes; thinking about accessibility requirements; thinking about the location, its access to services and its sustainability as a place for new dwellings; preservation of commercial uses; and, finally, thinking about local design codes and allowing them to be applied to these schemes.

**Ben Southwood:** I agree with the points made by both previous panellists about the improvements that are currently being put through the system and maybe some extensions of those improvements, like



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making contributions. I have mentioned equalising tax treatment for changes. Generally you pay much less council tax than you pay business rates on a property, so it might be sensible to not cut out that revenue stream.

I would add to the local design codes point made by Ben. We might be able to improve PD by having some residential communities use the more popular forms of PD, but combined with a local design codes thing. I talked about this in my latest Policy Exchange paper, *Strong Suburbs*, so have a look at that if you are interested.

**Ben Everitt:** You ended with a plug there—what a pro.

**Chair:** Thank you to our three witnesses. That has been a fascinating session. There have been some differences, but we have also explored some areas where there is agreement and maybe potential to improve things still further. That has been really helpful to the Committee to give that evidence to us today.