

Written evidence submitted by the Royal Town Planning Institute [PDR 037]

The RTPI champions the power of planning in creating prosperous places and vibrant communities. We have over 25,000 members in the private, public, academic and voluntary sectors. Using our expertise and research we bring evidence and thought leadership to shape planning policies and thinking, putting the profession at the heart of society's big debates.

We set the standards of planning education and professional behaviour that give our members, wherever they work in the world, a unique ability to meet complex economic, social and environmental challenges. We are the only body in the United Kingdom that confers Chartered status to planners, the highest professional qualification sought after by employers in both private and public sectors.

The RTPI is one of the thirteen organisations that makes up the High Streets Task Force. The HSTF aims to transform Britain's High Streets by rolling out a programme of guidance as well as data and research on the management of town and city centres. The RTPI chairs the Professional Research and Data Group (PRDG) and its contributors work to understand the evidence base for High Streets and their transformation.

What role should permitted development rights play in the planning system?

Permitted development (PD) was devised in the 1947 Planning Act as a means of removing the administrative burden of dealing with minor construction and change of use which had no planning impact. However in 2013 the Government for the first time deployed permitted development as a means of pursuing a *policy objective* namely the creation of additional homes by conversion from offices. This was a temporary measure designed to respond to the global financial crisis.

The difficulty of using permitted development as a means of achieving policy objectives is that it has is therefore also necessary to establish checks and balances, and these checks and balances are *discretionary matters* open to professional judgment. Whereas there is no need to place checks on the construction of a garden fence or front porch (other than the dimensions set out in regulation) the new generation of PD is not limited to *physical* bounds, but also professional ones. These can include matters such as highways and flooding. So a Prior Notification process was devised in which local planning authorities have to judge proposals against a list of considerations, much as in a proper planning application, but without an equivalent fee. This seems to go against the whole concept of PD, in which the law (by Statutory Instrument) sets physical dimensions which are absolute and not matters of judgment. It seems an odd process whereby PD is really being used as a substitute process for genuine planning applications, somehow out of concern that otherwise planning authorities might make decisions which the government does not like. There is a way to handle that question, through the proper exercise of government policy through the National Planning Policy Framework.

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

A study by Dr Ben Clifford commissioned by the RICS Research Trust¹ found that from 2013 to 2017 found a generally low standard of flat produced by the PD process.

Evidence of this reduction in quality included:

- ‘studio’ flats just 15 or 16m² (and an overall rate of just 30% meeting national space standards)
- no access to private or communal amenity space
- buildings with barely any changes done to convert from office to residential use
- residential developments in the middle of industrial estates
- 77% of units in the case study buildings were studio or one bedroom flats

In addition there has been a tendency for the very worst conversions, such as Terminal House in Harlow, to end up being occupied by large families in difficult circumstances. It is one thing for small dwellings to be generated for occupancy by a certain group such as young urban professionals. However the system is not reserving these PD dwellings for such people, and indeed the very locations of some of the ex-office blocks are not necessarily sought after by such people.

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

Although as we have observed above, the current use of PD is effectively the same as a planning application process, PD circumvents aspects of the planning application process, which are there for good reason. The fees for Prior Notifications have been very low², and only recently has the government conceded that a payment per dwelling might be charged. However, this doesn’t address the amount of work involved in Prior Notification – where a single dwelling conversion may require the same amount of evaluation as a conversion for 10 dwellings. “Normal” planning applications currently cost more to determine than they raise in fees: PD applications are much worse still. We have maintained a continuing watch on the very serious situation regarding the financing of local planning departments³: the increased use of PD only makes this worse.

Through avoiding Section 106 payments, PD does not pay into social infrastructure such as education, nor does it contribute towards affordable housing locally. The only contribution made by PD is to Community Infrastructure Levy, which is not uniformly charged across England – least of all in areas with low development value – because the government requires that it be set at a level low enough not to interfere with development “viability”.

¹ <https://www.rics.org/globalassets/rics-website/media/knowledge/research/research-reports/assessing-the-impacts-of-extending-permitted-development-rights-to-office-to-residential-change-of-use-in-england-rics.pdf>

² A PN for a change of use to a home is currently only £96

³ <https://www.rtpi.org.uk/policy/2019/november/resourcing-public-planning/>

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

The government's August 2020 White Paper seeks to reduce the amount of work involved in determining planning applications by the creation of detailed local plans, which provide sufficient detail as to make project-by-project decisions very straightforward. In this respect, PD is consistent with the White Paper. However the White Paper places great emphasis on the *local planning authority* doing the policy making. In PD, it is the Minister who makes detailed policy decisions for the whole country in one sitting. Given the very great variety of urban and rural situations existing in England, a matter which is gaining in political and public awareness, this seems a strange approach.

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

The impact is regrettable. There is no way of telling how much additional homes might have been provided through operating the normal planning process via a firm line in the NPPF combined with the current strong national policy on housing numbers. It is hard to see an authority being keen to retain large amounts of commercial property in the face of a strong national initiative. The only places where this might have been necessary are Outer London boroughs that lost a lot office space through the original PD laws from 2013. In retrospect this was short sighted as COVID means that, work places easily accessible to people's homes could well be a very valuable asset for places in the future.

The removal of any influence over the principle of development from the local planning authority not only means that important premises important to the future of an area may be permanently lost, but also the opportunity for the comprehensive, plan led and community influenced redevelopment of inner urban areas. RTPI Members have expressed concern that there could be office blocks whose removal as part of wider regeneration effort is now impossible, to the detriment of the proper planning of the area, including improving the public realm and the quality of streets.

Identifying areas of employment will become harder due to being unable to guarantee that identified buildings will not be converted into housing in the future. It will also be more difficult for LPAs to masterplan with particularly negative impacts on business and employment areas in contradiction to the need the LPA has to plan for and protect jobs. Furthermore, the implications for the Future High Street Fund from these proposals are unclear. It is particularly uncertain how recent recipients of this funding should respond to these proposals, which appear to run counter to the schemes that those bids were based on.

As leading barrister, Zac Simons⁴ says:

If you no longer need permission to change uses within Class E, or then to change from Class E to residential... doesn't that rather pull a rug out from under local planning authorities trying to do the things they need to do to promote the vitality and viability of town centres? What's the point of a

⁴ <https://www.planoraks.com/posts-1/town-centre-planning-whats-the-point>

policy which allocates a site for (say) retail if planners have no control over whether the building ends up (in the end) as an office? Or a flat? Without the need to apply for planning permission? What's the point of the sequential test if we can apply for (say) an out-of-town medical centre, bag our planning permission, and then – with no further need for planning permission – change the building's use to restaurant or retail?

This is however against a background in which the Government's own planning policy says ⁵:

Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Planning policies should:

(a) define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters;

(b) define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre;

...

(d) allocate a range of suitable sites in town centres to meet the scale and type of development likely to be needed, looking at least 10 years ahead. Meeting anticipated needs for retail, leisure, office and other main town centre uses over this period should not be compromised by limited site availability, so town centre boundaries should be kept under review where necessary;

...

The Government has reaffirmed its commitment to the principle – widely supported by the public – of “town centre first”. However reducing communities' ability to secure that objective seems unhelpful.

A further concern relates to sustainability more broadly. There is a lot of land in business use – especially in warehousing use – which is located so as to gain easy access to the strategic road network. This has been growing particularly as a response to the growth in internet shopping. If for some reason the owners of this land decide they no longer wish it to remain in its current use, we are concerned that through various loopholes it could end up in use for new residential development. Such development would be entirely car dependent and would not play its part in the nation's climate change agenda. On page 8 below in our response to the question on improving PDR we set out how we think such loopholes could be closed.

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

No impact assessment of the latest proposals has been supplied. The previous proposals were only to provide additional housing units, which they certainly did, but at the expense as we have seen of local office availability in high-demand areas. The potential loss of ground floor retailing in a random manner with no plan could see a vicious circle of decline set in in town centres. Whilst it seems clear that both town centres need to become smaller in extent and more diverse in uses, the random insertion of blank “dead” frontages of poorly designed flats seems to make no positive contribution here at all. Furthermore should residential conversions take place on a large scale affecting a high street, we are concerned at the potential loss of active

⁵ <https://www.gov.uk/guidance/national-planning-policy-framework/7-ensuring-the-vitality-of-town-centres>

frontages and the benefits they provide through informal surveillance and enhancements to the vitality and safety of an area.

Residential use in town and city centres has been growing under local planning authority leadership for some time. The success of the Council in turning Central Manchester into a good place to live, arguably for the first time since the beginning of the Industrial Revolution, is well known. By 2015, the residential population was approaching 50,000⁶. Other towns such as Stevenage have seen positive interventions by their councils to diversify their town centre land uses while making strong moves to preserve the architectural and commercial integrity of their town centre retail functions⁷.

Pepper-potted ground floor residential land uses will lessen the ability of town centres to embrace new uses in health care, gym use, arts and other leisure. New opportunities for places of worship and even (we declare an interest here) special pop-up shops devoted to helping members of the community engage in digital planning consultations with “geniuses” to assist them.

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

PD reduces the impact of the local communities. In recent proposals for “building up” the Government has proposed that neighbours’ comments would be taken into account (again by professionals exercising judgment) in deciding whether PD should go ahead. However this is confined to immediate neighbours.

Whilst it is not an RTPI policy as such, we have taken an interest in the Policy Exchange’s Street Vote concept where the local community could take a real share in deciding what rules should govern householder scale development in an area⁸. This seems preferable to Ministers making the rules in Whitehall.

Should the government reform PDR? If so, how?

If the current arrangements (including those to come into force in August 2021) have to be retained, they should be improved by:

Removing the right to convert premises providing essential services as defined in Covid-19 legislation. There is a risk of undermining the sustainability of town centres and high streets with the loss of essential local services such as convenience stores, pharmacies, solicitors or post offices where it is more financially lucrative to convert to residential use. This would impact most acutely on local poorer populations who can least afford to travel, and the elderly. Losing a mix of businesses in these locations risks further reducing local employment and increasing the need for longer travel to work times.

Ensuring the creation of high quality new residential units

⁶ https://www.manchester.gov.uk/downloads/download/6426/the_manchester_strategy p 12

⁷ See for example <https://stevenage-even-better.com/>

⁸ <https://policyexchange.org.uk/publication/strong-suburbs/>

- a) **Amenities:** Ensuring access to amenities such as parks for outdoor fitness and exercise. Our Plan the World We Need campaign highlighted the importance of this for mental and physical wellbeing during the Covid-19 pandemic and beyond⁹.
- b) **Ventilation:** Guaranteeing adequate opportunities to provide fresh air through ventilation

Size limit: There must be a size limit for the conversion of large retail and light industrial floorplates and it should be set at 250 square metres principally to ensure suitable living environments.

Protection of Lower floors: Loss of retail floorspace via PD should be limited to floors above the ground floor.

Vesting date: In addition to requiring a size limit of 250sq m for this PD right, the Government should confirm that the right to change B1 uses is limited to premises which were in B1 use when this consultation was launched (3 December 2020). Change of use from B8 warehousing to B1 is easy at present. These warehouses are located in suitable locations for logistics but unsustainable locations for housing and will do little to support transport decarbonisation, for example if people have to travel from out of town locations to reach amenities. Earlier this year we published research that says that a significant shift away from car dependence is essential to achieving net zero transport emissions¹⁰.

Fees: Whilst we cautiously welcome the consultation proposal for a new fee for PD right applications, set at the current prior approval fee of £96 per dwelling as some recognition of how resource intensive the work is. However, that figure would not meet the resource demands on the LPA and we recommend instead a fee of £231 per dwelling would be more appropriate.

Public Services

We support the notion that extensions only to hospitals and other premises, which provide health services to the public (free at the point of use), should be made easier via PD – but during the response to the Covid-19 pandemic only. We do not see any need to extend this proposal to any other land use (such as schools) or for it to be made permanent.

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⁹ <https://www.rtpi.org.uk/research/2020/june/plan-the-world-we-need/>

¹⁰ <https://www.rtpi.org.uk/netzerotransport>