

Housing, Communities & Local Government Committee

Inquiry: Permitted Development Rights

Evidence from: London First
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Introduction

1. London First is a business campaigning group with a mission to make London the best city in the world to do business, for the benefit of the whole UK. We convene and mobilise business leaders to tackle the key challenges facing our capital. We are made up of almost 200 leading employers across a wide range of sectors including strong representation from the development industry.
2. We welcome the opportunity to submit evidence for this Housing, Communities & Local Government Committee Inquiry into Permitted Development Rights (PDR) as we have serious concerns about the impact of change of use PDR on businesses and economic growth.

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

3. Historically, PDR have been used effectively for small scale development, particularly in relation to minor works to private dwellings. More recently, they have been increasingly used to encourage the change of use of commercial buildings to residential as well as to add upwards extensions.
4. We support the Government's efforts to increase housing delivery and find new sources of housing land supply. Furthermore, we supported the introduction of new Class E in 2020. Indeed, we called for this change to the Use Classes Order in our Planning Manifesto for High Streets and Town Centres¹ (written shortly before the COVID-19 pandemic). We remain of the view that the flexibility afforded by Class E for landlords to respond to changing market conditions, and quickly switch between different commercial uses without the need for planning permission, will play an important role in managing vacancy levels.
5. However, the widespread use of commercial to residential PDR risks significant harm to the sustainable economic health of our employment areas, high streets and town centres. In its recent consultation document, *Supporting housing delivery and public service infrastructure*², the Government predicted that take-up of the Class E PDR would be high (paragraph 27). Indeed, in most areas, housing will have a much higher land value than most (if not all) of the Class E uses. Therefore, whilst the PDR is intended to address surplus vacant commercial properties, a potential unintended consequence is that viable businesses are ousted in favour of a residential conversion. We do not consider that the minimum vacancy period to be applied to Class E PDR provides adequate protection in this regard (see paragraphs 23-24 below for more on this).
6. The planning system is capable of releasing commercial floorspace, where it is surplus to requirements, for residential use. This can be done through the local plan process in an orderly way that takes account of the specific needs of town centres and in knowledge of the economic circumstances and the relative value of the land depending on its use.
7. PDR should be retained, and indeed extended, for simple matters concerning single dwellings. Such rights have the benefit of reducing the number of householder planning applications that local planning authorities (LPAs) have to deal with and therefore freeing up time for forward planning and major applications that will have a meaningful impact on housing delivery.

¹ [Planning Manifesto for High Streets and Town Centres](#) (London First, January 2020)

² [Supporting housing delivery and public service infrastructure](#) (MHCLG, December 2020)

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

8. It is welcomed in principle that PDR conversions are now required to meet national space standards and provide adequate natural light. The quality of accommodation must be high if the Government is committed to PDR as a long-term housing solution and these standards must be maintained.
9. The 2013 PDR to convert offices to residential had no requirement to adhere to the unit mix requirements of LPAs. This has led to developments that seek to maximise the number of small units rather than address local housing need for larger and family sized accommodation.
10. Where controls have been introduced, such as the requirement for 'adequate natural light', there is no definition in planning law for this, which creates uncertainty. Consideration of local plan policies is not relevant and the relevant BRE guidance specifically states that compliance with their standards would not be appropriate in many instances particularly in towns and cities (where most delivery will be). There is an inherent lack of understanding between the intention for the PDR and practical delivery. A further example would be within the new Class E to residential PDR where one of the conditions for prior approval is evidence that a proposal will not impact on the character and sustainability of a conservation area. Again, such expectations are not defined in planning law and so risk confusion.
11. To date, PDR conversions have not been required to make any developer contributions, including affordable housing. There is no clear rationale for this stance and our view is that any development generating ten or more new private homes should make an affordable housing contribution regardless of the planning route taken. As with full planning applications, if there are practical considerations which inhibit the delivery of on-site affordable homes, a payment in lieu can be made towards the local authority's affordable housing programme.
12. The current approach has lost considerable opportunities to deliver affordable homes. By way of example, in just the first two years that office to residential PDR was operational, London Councils³ estimated that 1,000 new affordable homes could have been delivered in London from PDR conversions comprising ten homes or more. More recently, in early 2020, the Local Government Association⁴ estimated that since 2015 office to residential conversions had potentially led to the loss of 13,540 affordable homes that would otherwise have been delivered through the planning system in England (assuming an average of 25 per cent on major new housing developments). Within London, affordable housing is a structural need for the effective operation and functioning of the city.

³ [*The Impact of Permitted Development Rights for Office to Residential Conversions*](#) (London Councils, 2015)

⁴ <https://www.local.gov.uk/lga-over-13500-affordable-homes-lost-through-office-conversions> (Local Government Association, 2020)

13. The Government has previously argued that this is a significant over-estimation on the basis that the majority of the PDR homes would not have been delivered if they had needed planning permission. However, permissions were granted for commercial to residential conversions before any PDR was introduced and there is widespread disagreement with this argument in the planning and development sectors. Furthermore, the missed opportunity for planning obligations has been acknowledged by Government in last year's *Planning for the Future* white paper⁵ that includes a proposal for PDR schemes to be charged the Infrastructure Levy and for this to also include delivery of affordable housing.

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

14. It is not just the opportunity to deliver affordable homes that has been lost. PDR conversions have also failed to deliver on any other S106 planning obligations for site specific contributions towards physical or social infrastructure to support the uplift in residential population and neither have they been required to pay any authority-wide Community Infrastructure Levy (CIL). Those costs still need to be met and will inevitably fall to those developers who must work within the conventional planning process.
15. As referenced above, the *Planning for the Future* white paper included a proposal for a new Infrastructure Levy that would replace both CIL and S106 planning obligations and it was proposed that PDR schemes would be charged the new Infrastructure Levy. There has been widespread cross-sector support for PDR schemes to be captured, but until a Bill is taken through Parliament, there is no certainty that this will be brought forward.
16. In the meantime, there are clear financial costs to local authorities from lost S106 and CIL receipts, who still need to provide public services and infrastructure for these new residents. It is also important to note that developers' planning obligations and infrastructure provision more widely (including affordable housing) are fundamental to generating community support for development and, without them, this can have a negative impact on public trust.

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

17. PDR is a tool to facilitate deregulation of the planning system, taking control away from LPAs and stakeholders to curate their areas and allowing market forces to operate more flexibly. The reforms set out in the August 2020 planning white paper are founded on the principles of allocating all land a category and controlling development through increased use of design codes and less emphasis on local plan policies. If the reforms are brought forward as proposed last year and the existing PDR/prior approval process remains in place, PDR conversions would not need to comply with any relevant local design codes. The

⁵ [Planning for the Future](#) (MHCLG, August 2020)

only benefit arising would be the proposal to capture PDR for Infrastructure Levy payments as discussed above.

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

18. Commercial vacancy rates have risen as a result of the pandemic and there will be genuinely surplus space, especially retail and potentially office, that should be re-purposed. We fully support the re-purposing of brownfield land and the prioritisation for housing delivery on any surplus land. However, this needs to be planned for through the local plan process because Class E vacancies, and specifically office vacancies, will not be uniform across towns and cities. For instance, in London companies are still trying to understand the impact of increased homeworking, whether this is effective for their businesses and also whether they require more space to meet social distancing expectations and hybrid working. It should also be noted that homeworking and compressed hours are not entirely new concepts and many companies were already operating in this way.
19. Deregulation through PDR significantly impacts on a local authority's ability to plan for economic growth in their area and curate the balance of uses that they feel is needed for a mixed and sustainable community. As an alternative to PDR, we believe proactive planning is preferable. Swift updates are needed to the National Planning Policy Framework and the National Planning Practice Guidance to give LPAs a clear mandate to proactively plan for surplus commercial space and ensure residential is the priority alternative use.
20. For example, proactive planning could be used to curtail long straggly high streets and re-size struggling town centres. This need not require a lengthy masterplan process and arguing over a fixed boundary line for the commercial core. What is needed is a positive policy climate in local plans and planning decisions that seek to, in appropriate circumstances, reduce the commercial core of centres, consolidating and intensifying activity, and prioritising the residual ends of high streets and edges of town centres for housing delivery. Ilford, in the London Borough of Redbridge, is a good example of a town centre where this approach has been successfully followed.
21. This approach would achieve the Government's objectives of increasing housing land supply and increasing footfall to support commercial activities, whilst ensuring our town centres have a more sustainable long-term future. Planning for change of use in this way, by accepting that the high streets and town centres that succeed will likely be more compact, and curating them accordingly, will result in more sustainable placemaking and ensure that communities are still served locally by the shops and local services they need.
22. Conversely, PDR has the ability to introduce residential accommodation next to well-located, but dated, commercial buildings that need to be redeveloped. Due to the sensitivity of introducing residential neighbours to a redevelopment site, the ability of a replacement building to realise a site's development potential can

be limited and in some cases this constriction will mean that development is no longer economically viable.

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

23. In some circumstances, and when used in a very general and widespread nature, PDR can undermine business and economic growth. In many areas, housing has a higher land value than most commercial uses. Therefore, whilst PDR interventions are intended to address surplus vacant commercial properties, an unintended consequence is that viable businesses can be ousted in favour of a residential conversion. Research commissioned in 2017 by the Greater London Authority⁶ in respect of offices in London showed that 55 per cent of permitted development applications granted prior approval affected offices that were occupied.
24. The Government has confirmed that the new Class E PDR will require a property to have been vacant for a minimum period of three months. Whilst this may deter some landlords from extracting existing tenants, three months is a relatively short period and in areas with a significant uplift in land value arising from residential use there remains a real risk that unscrupulous landlords may force tenants to vacate against their will.
25. More broadly, allowing the market to pepper-pot housing on an ad hoc basis in high streets and town centres that are already struggling will break up active frontages and further dilute their vibrancy and commercial success. Commercial centres of all sizes, from London's Central Activities Zone (CAZ) to a local neighbourhood parade, thrive due to an agglomeration of commercial activities that encourage footfall and thrive off each other. Ad hoc residential conversions will undermine the advantages of agglomeration because the benefits of browsing and comparing goods in one location will gradually be lost, thus reducing footfall and impacting upon place-shaping objectives. Ultimately, this will compound the loss of physical retail floorspace and the increasing demand for online retail. For these reasons, we believe PDR risks serious consequences for the commercial real estate market and travel patterns. It also makes it challenging for LPAs to meet their NPPF responsibilities and strategically plan for employment and retail uses.
26. We have several landlords and managers of commercial assets within London First membership, and they are concerned about the implications of the Class E PDR on their portfolios. For example, the attractiveness of an office is intrinsically linked to the other Class E uses in the immediate vicinity of that office that employees can use in their lunch breaks and after work. Landlords also benefit from continuous retail frontage.

⁶ [London Office Policy Review](#) (Ramidus Consulting, 2017)

27. We are particularly concerned about the impact of the PDR on London's CAZ given the sharp, dramatic decline in footfall it has seen because of the pandemic and the uncertainty surrounding the future of the office and retail markets.
28. The CAZ is a nationally and internationally important office location and it is extremely important for the UK economy. The report *Good Growth for Central London*⁷, written by Arup and commissioned by the London Property Alliance, shows that prior to the pandemic the CAZ and Northern Isle of Dogs supported 1.9 million jobs and generated 10% of the UK's economic output. In addition to the office sector, it is important that we do not undermine the attractiveness of Central London to domestic and international visitors. PDR also risks harming the shopping and leisure sectors, which will undermine their contribution to the economic recovery of London and the UK. In 2019, 55 per cent of all inbound visitor spend in the UK occurred in London⁸.
29. Given that residential values in Central London are extremely high, and the uncertainty over the future of Article 4 Directions (see below), there is significant concern that PDR could lead to viable business premises being converted to residential to the detriment of remaining businesses and employment levels. This risks the unique role the CAZ plays in the UK economy, to the detriment of the whole country. Future residential development in the CAZ needs to be appropriately planned and managed to enable it to retain its world class economic, tourism and cultural offer.

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

30. If a change of use planning application were to be submitted, the local planning authority has a statutory obligation to consult with stakeholders, including the local community, and the consultees can engage with the application process to express their support or objection to the proposal. With a PDR prior approval application, involvement is limited. Neighbour notification is only undertaken where it is considered relevant by officers. Local communities therefore potentially feel excluded from the planning process which exacerbates any issues of public trust.

⁷ [Good Growth for Central London](#) (Arup, 2020)

⁸ <https://www.visitbritain.org/visitor-economy-facts>

Should the government reform PDR? If so, how?

31. We do not support such extensive use of PDR for change of use for the reasons set out above.
32. If PDR is to continue to play a significant role in housing delivery it should be made more practical in terms of the wording of the legislation and further guidance is needed. Definitions should be provided, through the NPPG, so that at a local level it is entirely clear what standards needs to be met to satisfy a prior approval.
33. Another important consideration is the agent of change principle. This is now a well embedded principle in the planning system that protects the interests of established commercial uses from adjacent new residential development. This should apply to residential PDR conversions as well as new development. Businesses in the night-time economy are particularly at risk and these will play an increasingly important role in high streets and town centres as their predominant activities move away from traditional retail and towards the leisure and culture sectors. It is therefore vital that these businesses are not compromised.
34. We are also concerned about the use of Article 4 Directions and the Government's proposal to reduce their scope⁹. With the increasing use of PDR to facilitate residential conversions, it has been necessary for some LPAs to use Article 4 Directions to restrict PDR having effect where it would undermine key employment locations or specific sectors in the local economy. And now the Government has confirmed it will proceed with the Class E PDR, it may be important to local authorities, as they plan for their economic recovery from the pandemic, that they are not restricted in their use of Article 4 Directions.
35. If the scope of Article 4 Directions were to be reduced, and LPAs could not protect regionally important employment locations or specific employment sectors, this would have a detrimental impact on the economic performance and employment opportunities in those areas. The impact of PDR on viable businesses could be far reaching and LPAs should be able to protect key employment locations.
36. Finally, and most significantly, PDR schemes should contribute towards the necessary infrastructure needs arising from them through revision to the CIL regulations or a payment in lieu of affordable housing.

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⁹ [National Planning Policy Framework and National Model Design Code: consultation proposals](#) (MHCLG, January 2021)