



## BRIEFING PAPER

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# Planning in England: permitted development and change of use

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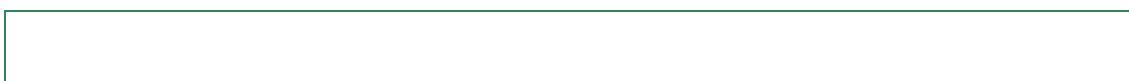
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## Summary

This briefing from the House of Commons Library examines planning policy in England relating to permitted development and change of use and the controversy surrounding some of the recent policy changes.

### What are permitted development rights?

Permitted development rights (PDRs) are rights to make certain changes to a building without the need to apply for planning permission. They derive from a general planning permission granted by Parliament, rather than from permission granted by the local planning authority (LPA). Before some PDRs can be used, the developer must first obtain “prior approval” in relation to specified aspects of the development from the LPA.

Some PDRs cover building operations, such as home extensions, whereas others cover change of use of buildings.

The [Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#) (the 2015 Order) grants PDRs. Under the 2015 Order, planning permission is not needed for changes in use of buildings within each subclass and for certain changes of use between some of the use classes.

Various changes to PDRs were made in 2020, many of them in response to Covid-19.

### Removing PDRs

In some circumstances LPAs can suspend PDRs in their area, under Article 4 of the [Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#).

### What next? Consultation in December 2020 on updating PDRs

The Government ran a [consultation on revised PDRs](#) (to reflect the new use classes introduced in September 2020, discussed below) between December 2020 and January 2021.

Main points of the consultation included:

- A new PDR to allow **change of use from the new use class E (commercial, business and service) to C3 residential**.
- An amended PDR for the **extension of schools, colleagues, universities and hospitals**, to support the faster delivery of schools and hospitals and other public infrastructure improvements.
- A **similar right for prisons and defence sites**, which would allow prisons (but not other residential facilities such as immigration removal centres) to expand their facilities.
- **Faster decisions on applications for planning permission:** for relevant planning applications, the statutory period for determination would be reduced from 13 weeks (or 16 weeks in the case of development requiring an Environmental Impact Assessment) to 10 weeks.
- **Existing PDRs will be consolidated and simplified.**
- National parks, areas of outstanding natural beauty and other sensitive sites would continue to be excluded from PDRs, but (unlike existing PDRs) **the PDRs proposed here would apply in conservation areas**.

### Response to the consultation

As with other proposed planning reforms and the existing PDR for office to residential change of use, these proposals – and especially those relating to change of use from Class E commercial, business and service to residential - have proved controversial.

Although some commentators acknowledged a need for more homes and to support struggling high streets, they often cast doubt on the Government's approach, saying that increased PDRs were not the best option. Critics of the Government's approach also suggested that it might have damaging effects on (amongst things) local democracy and community engagement, the quality of the new homes to be created and the historic and natural environment. Some suggested that the proposed changes might undermine the high street rather than support its revival. Others argued that LPAs should be able to seek developer contributions for any new homes created through the new, expanded PDRs, a matter on which the Government has not yet made a decision.

The [Local Government Association criticised](#) the proposals, arguing that they did not support the aspirations (such as greater democratic accountability and transparency, protecting our heritage and planning for beautiful and sustainable places) set out in the white paper *Planning for the Future* and could have unintended and irreversible consequences, undermining local growth strategies and depriving local authorities of developer contributions (section 106 payments).

[Planning magazine](#) remarked that, from the Government's perspective, the proposed changes no doubt seemed a "no brainer" and the increased right to convert commercial property to residential use was supported by the Home Builders Federation. But (*Planning* reported) some planning professionals were expressing concerns, such as reduced control over what happens in town centres, although the Ministry of Housing, Communities and Local Government (MHCLG) rejected those criticisms.

In its [detailed response to the consultation](#), the Royal Town Planning Institute (RTPI) argued (amongst other things) that

- The proposed changes would reduce opportunities for community engagement and democratic oversight and would make it more difficult to identify areas of employment within Local Plans
- Possible unintended consequences of the proposed changes included loss of active frontages in high streets and possible loss of facilities for physical activity such as gyms, swimming pools and other sports and leisure facilities in Class E
- The PDRs should not apply in conservation areas
- Some other matters should be added to prior approval for PDRs, including access to essential services, quality design, ventilation and access to green and open spaces
- The Government should allow existing Article 4 directions to be extended and continue as a transitional provision for these new PDRs
- The PDR for extensions to hospitals and other health service premises should apply only during the response to the Covid-19 pandemic.
- There was no need for the proposed PDR for schools, colleges and universities or for the proposed PDR for prisons.

The [Town and Country Planning Association argued](#) that, although we need new homes and to invigorate the high street, the proposed PDRs were not the right way to do it. Similarly, the [Chartered Institute of Housing did not dispute](#) (it said) the need for more homes or the role for residential uses in some high streets and town centres, but did not

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regard PDRs as the appropriate approach. The Institute was concerned that the proposals would take control from LPAs, impacting on their ability to address specific local needs, and (even though the Government had taken steps to address the identified problems with the quality of some homes created through PDRs) might lead to poor quality housing. The [Royal Institute of British Architects also argued](#) against the proposed reforms, saying that they could create a “race to the bottom” and lead to “shoddy, small and inadequate homes”.

The [Construction Industry Council argued](#) that the proposals could alienate communities by enabling poor quality development, without contributing to local infrastructure, and called for more safeguards. The [British Property Foundation supported](#) the Government’s aim of breathing new life into town centres, but they too expressed concerns that the proposed PDR for conversion of commercial, business and service use to residential would work to the long-term detriment of high streets. The business campaigning group [London First argued](#) that housing should not be “pepper-potted” into struggling high streets and town centres; one possible unintended consequence of the proposed changes was that viable businesses would be ousted in favour of residential conversions.

The [Chartered Institute for Archaeologists said](#) that successive changes to planning policy were undermining the management and protection of the historic environment. In an open letter with other natural, built and historic environment organisations, the Institute argued that applying the new PDRs to conservation areas and not including design and climate considerations in matters for prior approval would be “extremely damaging”. The [Wildlife Trusts described](#) the proposed changes as “alarming”, suggesting that they would lower housing standards and threaten nature and the amount of accessible green space. They would also (the Wildlife Trusts said) leave LPAs unable to require climate mitigation and adaptation measures to be put in place before granting planning permission, and put conservation areas at risk. The [Theatres Trust welcomed](#) the commitment to exclude theatres and other cultural venues from the proposed PDRs, but raised concerns about potential negative impacts from other aspects of development.

### Change of use

The rules relating to when a change of use for a building does and does not require planning permission are set out in the [Town and Country Planning \(Use Classes\) Order 1987](#) (the 1987 Order) and the [Town and Country Planning \(General Permitted Development\) Order 2015](#) (the 2015 Order).

The 2015 Order grants PDRs. Under the 2015 Order, planning permission is not needed for changes in use of buildings within each subclass and for certain changes of use between some of the classes. If there are no PDRs for change of use between categories set out in the 2015 Order, then full planning permission for any change of use will be necessary to prevent the risk of enforcement action.

72,980 new homes were added to the housing stock through change of use PDRs between 2015-16 and 2019-20. Delivery peaked in 2016-17 (at 18,890 new homes), but had fallen by 35% by 2019-20.

### Use classes

The 1987 Order puts uses of land and buildings into various categories known as “use classes”, further split up into a number of subclasses. The categories give an indication of the types of use which may fall within each use class. Not all uses are put into a use class; those that are not are called “sui generis”.

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Until 1 September 2020, there were four main categories:

- Class A for shops and other retail premises such as restaurants and bank branches
- Class B for offices, workshops, factories and warehouses
- Class C for residential uses and
- Class D for non-residential institutions and assembly and leisure uses.

### New use classes from 1 September 2020

Parts of the use class order dealing with non-residential uses were amended from 1 September 2020, by the [Town and Country Planning \(Use Classes\) \(Amendment\) \(England\) Regulations 2020](#).

These Regulations created new use classes - a broad Class E (commercial, business and service), Class F1 (learning and non-residential institutions) and Class F2 (local community) – and so obviate the need to obtain planning permission for some changes between various non-residential uses required under the previous use classes. Shops will fall into Class E (commercial, business and service) or Class F2 (local community) depending on their size, with smaller shops in the local community category.

These Regulations also moved some uses out of the previous use classes and into the “sui generis” category. This provides some measure of protection against change of use, in that any change of use cannot be done under PDRs and will require planning permission.

In its evidence to the Housing, Committee and Local Government select committee’s [inquiry into supporting our high streets](#) after Covid, [the RTPI noted](#) that the new use classes had created greater flexibility, but an unintended consequence was that retail businesses would be able to operate from what would formerly have been B1 business premises without the need for consent. Although the RTPI welcomed the introduction of more residential accommodation to town centres, here too it argued there should be some controls.

### Office to residential change of use

The office to residential change of use PDR – introduced as a temporary measure but made permanent from April 2016 - has proved controversial.

A total of 72,980 new dwellings were added to the housing stock through PDRs over the five years between 2015-16 and 2019-20. Of these, 64,798 (89%) were created through office to residential conversions – the largest category by a substantial margin.

The Royal Institute of Chartered Surveyors (RICS) [reported in May 2018](#) that the quality of office to residential schemes ranged from high to extremely poor, with PDR schemes being “significantly worse” than those which had been through the full planning process. A [briefing by London Councils](#) in August 2015 noted (for example) the loss of key office accommodation and of new affordable housing supply and [Planning magazine reported in November 2018](#) that the Local Government Association had estimated that 10,500 affordable homes had been lost, as developer contributions on such conversions could not be sought.

The Government, though, maintains that the PDR plays a part in delivering much-needed homes. In response to a [PQ in January 2019](#), the then Housing Minister, Kit Malthouse, said that the PDR had then delivered more than 42,000 homes, which met fire safety and other building regulations. In December 2020, the planning minister, Christopher Pincher, [described recent measures](#) to ensure PDRs would deliver good quality homes.

The [Town and Country Planning \(Permitted Development and Miscellaneous Amendments\) \(England\) \(Coronavirus\) Regulations 2020](#) came into force on 24 June 2020. They also amended the 2015 Order, so that each individual PDR in force at the time - such as office to residential (Class O) – now requires “adequate natural light in all habitable rooms”. This will be a matter for consideration at prior approval. More detail is in the [Explanatory Memorandum to the Regulations](#). (Where other PDRs for the creation of new homes have since been introduced – such as the creation of new dwellings through upward extensions - they also require prior approval consideration of natural light).

The [Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) Regulations 2020](#) will, from 6 April 2021, require all new homes created under PDRs to comply “as a minimum” with [the nationally described space standards](#).

## Upward extensions

It has long been the Government’s aim to broaden PDRs to enable owners to extend their properties upwards. This PDR has, though, attracted some controversy.

The Commons Library briefing [What next for planning in England? The National Planning Policy Framework](#) surveys some of the main policy changes reflected in the revised NPPF in 2018/19. As section 15 of that briefing explains at more length, under the heading of making effective use of land, the [National Planning Policy Framework](#) now says that planning policies and decisions should support opportunities to use the airspace above existing buildings, by allowing upward extensions in certain situations.

In October 2018, MHCLG [launched a consultation](#) aimed (it said) at supporting the high street by (amongst other things) increasing PDRs. One of the changes proposed there was to allow certain types of building to be extended upwards.

In its [response to this consultation](#), the Royal Town Planning Institute argued against the extension of PDRs and against a PDR for upwards extensions, identifying a number of potential drawbacks, including poorly-designed dwellings and a major impact on existing occupiers and neighbours.

The [Town and Country Planning \(Permitted Development and Miscellaneous Amendments\) \(England\) \(Coronavirus\) Regulations 2020](#) are now in force. One of the PDRs they cover relates to upward extensions. The new PDR in these Regulations is confined only to creating new homes, and then only on top of purpose-built, detached blocks of flats, up to two additional storeys. More detail is in the [Explanatory Memorandum to the Regulations](#).

The [Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) \(No. 2\) Order 2020](#) came into effect on 31 August 2020, expanding the PDR for upward extensions (previously only available for the creation of new homes on top of purpose-built blocks of flats) to allow for the extension of existing homes and the creation of new homes above certain other types of building. The right applies to buildings built since 1 July 1948, but not in Conservation Areas, National Parks and the Broads, areas of outstanding natural beauty, or sites of special scientific interest. There are various provisions about height, overlooking and so on and all these rights are subject to prior approval. More detail is in the [Explanatory Memorandum to the Order](#).



## Demolition and building of new housing

The [Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) \(No. 3\) Order 2020](#) came into effect on 31 August 2020. This dealt with PDRs for demolition and rebuilding as residential, as proposed in the 2018 consultation [Planning reform: Supporting the high street and increasing the delivery of new homes](#). That consultation had promised further consultation on the detail, but the Explanatory Memorandum to this Order said that would not now happen, in the interests of speed and stimulating regeneration and delivering more homes more easily, as part of the Government's response to the Covid-19 pandemic.

[Article 4 of the 2020 Order](#) added a new class ZA to the 2015 Order, dealing with demolition of buildings and construction of new dwellinghouses in their place. To fall within the scope of this new PDR, the building to be demolished must have been built before 1 January 1990, be vacant, redundant and free-standing and fall within the B1(a) offices, B1 (b) research and development, B1 (c) industrial processes (light industrial), and free-standing purpose-built residential blocks of flats (C3) use classes on 12 March 2020.

The PDR is subject to the prior approval process and the building must have been vacant for at least six months prior to the date of the application for prior approval. There are limits on the scale of the development, as the [Explanatory Memorandum to the Order](#) explains.

- This briefing applies to England only. For information about permitted development and use classes in other parts of the UK, see sections 8 and 9 of the joint Library briefing [Comparison of the planning systems in the four UK countries: 2016 update](#).
- Section 2 of this briefing was updated on 4 June 2021, when sections 2.10 and 2.11 were added. Other sections remain (apart from minor corrections) as published on 12 February 2021.
- Commons Library briefings on other aspects of planning can be found on the [topic page for housing and planning](#).

# 1. Permitted development rights

Permitted development rights (PDRs) are a right to make changes to a building without the need to apply for planning permission. They derive from a general planning permission granted by Parliament, rather than from permission granted by the local planning authority (LPA). Some are concerned with change of use, while others are concerned with other modification or change to a property, such as extensions and loft conversions.

The [Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#) ("the 2015 Order" or "the General Permitted Development Order") grants PDRs; Schedule 2 of this Order sets out the scope of PDRs.<sup>1</sup>

## 1.1 Designated areas

In some areas, called "designated areas", PDRs are more restricted. These are generally in conservation areas, a National Park, an Area of Outstanding Natural Beauty or the Norfolk or Suffolk Broads. In designated areas planning permission will be needed to carry out the changes to the building. It does not necessarily mean that the changes cannot be made, but simply that the LPA will want to consider the proposals in detail first. Restrictions also apply if the property is a listed building.

PDRs do not apply in all areas.

The Planning Portal website has guides to the rules relating to some of the most frequently used PDRs. These include:

- [Domestic solar panels](#)
- [Extensions](#)
- [Loft conversions](#)
- [Outbuildings](#) and
- [Satellite, TV and radio antenna](#).<sup>2</sup>

## 1.2 Neighbour consultation scheme

Before some PDRs can be used, for example for larger single-storey rear extensions, there is a neighbour consultation scheme requirement, which requires notifying the LPA of what is proposed. The LPA will serve a notice on adjoining owners or occupiers (that is, those who share a boundary, including to the rear). If any adjoining neighbour raises an objection within the 21-day period, the LPA will take this into account and make a decision about whether the impact on the amenity of all adjoining properties is acceptable.<sup>3</sup>

<sup>1</sup> SI 2015/596. PDRs were previously set out in the [Town and Country Planning \(General Permitted Development\) Order 1995](#) (SI 1995/418, the 1995 Order).

<sup>2</sup> All accessed 5 February 2021

<sup>3</sup> For more information about the scheme and its requirements, see HM Government, [Permitted Development Rights for Householders: Technical Guidance](#), September 2019.

## 1.3 Removing PDRs: Article 4 directions

In some circumstances, LPAs can suspend PDRs (including those relating to change of use) in their area. LPAs have powers under Article 4 of the 2015 Order to remove PDRs. While Article 4 directions are confirmed by LPAs, the Secretary of State must be notified and has wide powers to modify or cancel most directions at any point.<sup>4</sup>

Article 4 directions must be made in accordance with guidance given in the [National Planning Policy Framework](#), which directs that there must be a clear justification for removing national PDRs:

53. The use of Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the well-being of the area (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities). Similarly, planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.<sup>5</sup>

The Government's [Planning Practice Guidance \(PPG\) on when planning permission is required](#) says that, provided there is justification for both its purpose and extent, it is possible to make an Article 4 direction to:

- cover an area of any geographic size, from a specific site to a local authority-wide area
- remove specified permitted development rights related to operational development or change of use
- remove permitted development rights with temporary or permanent effect<sup>6</sup>

There are circumstances in which LPAs may be liable to pay compensation having made an Article 4 direction. The PPG says that, if an LPA makes an Article 4 direction, it can be liable to pay compensation to those whose PDRs have been withdrawn, but only if it then subsequently:

- refuses planning permission for development which would otherwise have been permitted development; or
- grants planning permission subject to more limiting conditions than the General Permitted Development Order

The grounds on which compensation can be claimed are limited to abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights.

Paragraph: 042 Reference ID: 13-042-20140306

PDRs can be removed if a local authority makes an Article 4 direction.

LPAs can liable to pay compensation in some circumstances, where PDRs are withdrawn.

<sup>4</sup> Department for Communities and Local Government (DCLG), [Extending permitted development rights for homeowners and businesses: technical consultation](#), November 2012: page 20

<sup>5</sup> Ministry of Housing, Communities and Local Government (MHCLG), [National Planning Policy Framework](#), CP 48, February 2019: paragraph 53. The National Planning Policy Framework provides the background against which Local Plans are drawn up and applications for planning permission are determined. The Commons Library briefing [What next for planning in England? The National Planning Policy Framework](#) examines the NPPF (CBP 8260, 10 June 2019)

<sup>6</sup> MHCLG, [Guidance: When is permission required?](#), paragraph 037, revised 6 March 2014

Revision date: 06 03 2014<sup>7</sup>

Whereas before April 2010 the Secretary of State confirmed certain Article 4 directions, it is now for LPAs to confirm all Article 4 directions (except those made by the Secretary of State) in the light of local consultation. An LPA must, as soon as practicable after confirming an Article 4 direction, inform the Secretary of State via the National Planning Casework Unit. The Secretary of State does not have to approve Article 4 directions, and will only intervene when there are clear reasons for doing so.<sup>8</sup>

The withdrawal of PDRs does not necessarily mean that planning consent would not be granted. It simply means that an application has to be submitted, so that the LPA can examine the plans in detail.

### 1.4 Greater scope for PDRs: consultation in 2018

In October 2018, MHCLG [launched a consultation](#) aimed (it said) at supporting the high street by (amongst other things) increasing PDRs.<sup>9</sup>

One of the changes proposed there was to allow certain types of building to be extended upwards (discussed in section 6 below). The consultation also proposed to

- Allow greater change of use to support high streets to adapt and diversify, to facilitate more leisure and community uses (such as gyms, libraries and health care) and office use as well as homes.
- Remove the existing PDR for the installation of, and advertising on, new public call boxes
- Increased size limits for off-street electric vehicle charging points
- Make permanent two time-limited PDRs relating to change of use from storage or distribution to residential use and larger single-storey rear extensions to houses.<sup>10</sup>

The consultation proposed greater flexibility too around change of use, subject to prior approval:

1.7 To support greater diversity and footfall on the high street, we are proposing a new national permitted development right to allow shops (A1) financial and professional services (A2), hot food takeaways (A5), betting shops, pay day loan shop and launderettes to change to office use (B1). We are also proposing to allow hot food takeaways (A5) to change to residential use (C3), as is already the case with the other uses listed in this paragraph.<sup>11</sup>

The consultation also put forward proposals on temporary change of use, where it proposed to extend the existing PDR for the temporary

<sup>7</sup> MHCLG, [Guidance: When is permission required?](#): paragraph 042, revised 6 March 2014

<sup>8</sup> MHCLG, [Guidance: When is permission required? Does an article 4 direction have to be submitted to the Secretary of State?](#): paragraph 051, revised 6 March 2014

<sup>9</sup> MHCLG, [Planning Reform: Supporting the high street and increasing the delivery of new homes](#), October 2018: page 10

<sup>10</sup> As above: pages 9 - 10

<sup>11</sup> As above: page 11

change of use from shops (A1), financial and professional services (A2), restaurants and cafes (A3), hot food takeaways (A5), offices (B1), non-residential institutions (D1), assembly and leisure uses (D2), betting shops and pay day loan shops to change to shops (A1), financial and professional services (A2), restaurants and cafes (A3) or offices (B1), so that premises could change use for up to 3 years rather than 2 years as now.<sup>12</sup>

The consultation also proposed to amend the Use Class Order by (for example) simplifying the A1 shops use class or (to support diversification) creating a “new use class that provides for a mix of uses within the A1, A2 and A3 uses beyond that which is considered to be ancillary”.<sup>13</sup> (These proposals are similar to those in the July 2014 technical consultation, discussed later).

In a [Written Statement in March 2019](#), the then Housing Secretary, James Brokenshire, confirmed that the proposed PDRs would be introduced as proposed in the consultation (although the time-limited right for change of use from storage to residential would not be extended beyond 10 June 2019), with new guidance on better planning for high streets. He said that the right to deliver new homes should respect the design of the existing streetscape and consider the amenity of neighbours:

We will take forward a permitted development right to extend upwards certain existing buildings in commercial and residential use to deliver additional homes, engaging with interested parties on design and technical details. We would want any right to deliver new homes to respect the design of the existing streetscape, while ensuring that the amenity of neighbours is considered.<sup>14</sup>

The design of a PDR for demolishing commercial buildings to be replaced by homes would (he said) continue to be considered. There would be consultation in 2019 on a “future homes standard”, with a view to introducing it by 2025. On implementation, he said:

I intend to implement an immediate package of permitted development right measures in the spring, with the more complex matters, including on upward extensions, covered in a further package of regulations in the autumn.<sup>15</sup>

In March 2019, the Royal Town Planning Institute (RTPI) reiterated its opposition to expanding PDRs, arguing that they might have an adverse impact on the high street:

“We urge the Government to consider the impact that the new PDRs would have on our ailing high streets if takeaways and other shops are allowed to become residential flats. No one would argue against the need for more affordable homes, or that high streets must adapt, but change must be part of a planned, local vision.”

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<sup>12</sup> MHCLG, [Planning Reform: Supporting the high street and increasing the delivery of new homes](#), October 2018: page 11

<sup>13</sup> As above: page 12

<sup>14</sup> [HC Deb 13 March 2019 c20WS onwards](#). The [PPG on town centres and retail](#), first published in March 2014, was updated in July 2019 and September 2020.

<sup>15</sup> As above

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The RTPI believes that the new PDRs announced yesterday will impair the ability of local authorities to manage development according to the needs of local communities. Indeed, by removing the requirement for a planning application, the RTPI says that the local community will be excluded from having their say.<sup>16</sup>

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<sup>16</sup> RTPI, [RTPI reiterates opposition to introduction of new PDRs](#), 14 March 2019

## 2. Updating PDRs: consultation in December 2020

Section 3.6 below discusses the introduction of new use classes from 1 September 2020, through the [Town and Country Planning \(Use Classes\) \(Amendment\) \(England\) Regulations 2020](#).<sup>17</sup>

For now, PDRs are based on the use classes in force on 31 August 2020 (in other words, before these Regulations came into force). The [Explanatory Memorandum to these Regulations](#) said that transitional provisions, retaining the effect of these PDRs, would apply until 31 July 2021, when new, revised PDRs for change of use would be introduced.<sup>18</sup>

The Government launched a [consultation on revised PDRs](#), to reflect the new use classes, on 3 December 2020.<sup>19</sup> The consultation closed on 28 January 2021.

### 2.1 Change of use from Class E (commercial, business and service) to C3 residential

The consultation document opened by saying that town centre retailers face a “significant challenge” from changing consumer behaviour, magnified by the Covid-19 pandemic and goes on to argue that converting surplus retail space to housing will help to revive the high street:

5. Where there is a surplus of retail floorspace, quality residential development will help diversify and support the high street. It will create new housing opportunities including for those who will benefit from close proximity to services, such as the elderly and those living with disabilities. It will also make effective use of existing commercial buildings, bring additional footfall from new residents, and assist in the wider regeneration of town centre and other locations. Repurposing of brownfield sites is better for the environment and reduces the need for greenfield development.<sup>20</sup>

The consultation document observed that the PDR proposed here – which would allow all uses within new class E (commercial, business and service) to change use to Class C3 residential - would go “significantly beyond existing rights”.<sup>21</sup>

There would be no size limit attached to this new PDR. The consultation document notes that some substantial retail and office buildings might be converted, creating a significant number of new homes, with the impacts being managed through prior approvals.<sup>22</sup>

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<sup>17</sup> SI 2020/757

<sup>18</sup> [Explanatory Memorandum to the Town And Country Planning \(Use Classes\) \(Amendment\) \(England\) Regulations 2020 \(SI 2020/757\)](#): paragraph 7.10

<sup>19</sup> MHCLG, [Supporting housing delivery and public service infrastructure](#), 3 December 2020

<sup>20</sup> As above: paragraph 5

<sup>21</sup> As above: paragraph 15

<sup>22</sup> As above: paragraph 17

As discussed in section 5 below, there is already a permanent PDR allowing the conversion of office to residential accommodation.

## 2.2 Extending schools, colleges, universities and hospitals

The consultation document also proposed more planning changes, to support the faster delivery of schools and hospitals and other public infrastructure improvements.<sup>23</sup> It argued that investment in public service infrastructure should be planned and delivered “faster and better”.<sup>24</sup> There is an existing PDR for extending schools, colleges, universities and hospitals, but this is subject to a size limit. The proposal now is to create “greater flexibility” by amending the size limit, as the consultation document explains:

35. We propose to amend the right to allow such uses to expand their facilities by up to 25% of the footprint of the current buildings on the site at the time the legislation is brought into force, or up to 250 square metres, whichever is the greater. This would allow greater flexibility for those sites that have enlarged or developed additional buildings over time and flexibility for those premises with a smaller footprint. To provide further flexibility, it is also proposed that the height limit is raised from 5m to 6m, excluding plant on the roof, except where it is within 10 metres of the boundary or curtilage. We are interested to know if there is any evidence that the height limit should be raised further, subject to fire safety considerations. To benefit from the right, the site would already have to have sufficient land to build the extension or new building. In the case of schools, playing fields would continue to be protected. We will ensure decisions made by government departments, and project delivery by public service infrastructure providers, take account of environmental advice available to them.<sup>25</sup>

## 2.3 Extending prisons and buildings on defence sites

The consultation document went on to propose extending a similar right to prisons and defence sites. The PDR would allow prisons (but not other residential facilities such as immigration removal centres) to expand their facilities by up to 25% of the footprint of the buildings on site when the legislation is brought into force, or up to 250 square metres, whichever is the greater. The height limit would be 6 metres, excluding plant on the roof. The consultation document said that these changes would “enable more efficient and effective use of the existing estate and enable prisons to provide additional prison accommodation to address an increase in prisoner numbers without the need for a planning application”.<sup>26</sup>

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<sup>23</sup> MHCLG, [Supporting housing delivery and public service infrastructure](#), 3 December 2020: paragraph 6

<sup>24</sup> As above: paragraph 31

<sup>25</sup> As above: paragraph 35

<sup>26</sup> As above: paragraph 37



For defence sites, the consultation document said the Government would consider how buildings could be expanded or constructed “within the wire” of existing defence sites:

As part of the wider consultation we will consider how the permitted development rights set out in this chapter, or similar rights, could enable the expansion or construction of new buildings ‘within the wire’ on existing Defence sites. This will support the Ministry of Defence as it commences its once-in-a-generation Defence Estate Optimisation Programme (DEOP), both improving the standard of Defence infrastructure and creating 5,000 jobs throughout the United Kingdom.<sup>27</sup>

## 2.4 Faster decisions on certain applications for planning permission

Where such public service schemes are too large to fall within the scope of PDRs, the consultation document argued that decisions on applications for planning permission should be faster.<sup>28</sup> It argued that some applications now take much longer than the statutory timescale of 13 weeks (or 16 weeks in the case of development requiring an Environmental Impact Assessment) and, although such applications should be considered in the normal way, those decisions should be made more quickly.<sup>29</sup>

The consultation document outlined how the process would be changed (principally by amending the [Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#)).<sup>30</sup> For relevant planning applications, the statutory period for determination would be reduced to 10 weeks:

56. This shorter timescale for determination will encourage positive, pro-active, and effective pre-application engagement between all parties, including statutory consultees, on applications for significant public service development. This would be clearly set out in the National Planning Policy Framework as explained in paragraph 69 below. Early and effective pre-application engagement is already a core part of the process for many of these projects and the more issues that can be resolved at pre-application stage, the greater the benefits, ensuring local planning authorities can issue timely decisions. Given the nature and importance of these proposals for development, it is likely that local discussions and engagement with local communities will have been underway for some time prior to the submission of a formal planning application. We will issue further guidance to applicants, statutory consultees, and local planning authorities on the importance of pre-application engagement and prioritising these developments.<sup>31</sup>

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<sup>27</sup> MHCLG, [Supporting housing delivery and public service infrastructure](#), 3 December 2020: paragraph 38. The Ministry of Defence has published guidance on the [defence estate optimisation portfolio](#) (15 October 2020, updated 17 November 2020).

<sup>28</sup> MHCLG, [Supporting housing delivery and public service infrastructure](#), 3 December 2020: paragraph 8

<sup>29</sup> As above: paragraphs 42-3

<sup>30</sup> SI 2015/595

<sup>31</sup> MHCLG, [Supporting housing delivery and public service infrastructure](#), 3 December 2020: paragraph 56

Lastly, the consultation document set out proposals for consolidating and simplifying some existing PDRs, including those which provide for change of use between use classes. The consultation document observed that this exercise would be “significant and complex” and that up to 49 individual rights (listed there in Annex A) might need to be amended.<sup>32</sup> Other rights relating to temporary use and non-domestic extensions and alterations may also be affected.<sup>33</sup>

The consultation document spoke of “recognising the intent” behind the recent changes to the use classes and the new flexibilities they introduced and creating a “more accessible set of rights” by simplifying and rationalising rights “where possible” and “revoking unnecessary rights and merging where appropriate”. It listed the issues which (it said) might arise here, such as the broadening or narrowing of rights or the merging of rights that do or do not apply in conservation areas or other protected land.<sup>34</sup>

The Government did not propose any PDR relating to “sui generis” uses such as public houses; the existing requirement for planning permission would remain. Nor would any change be made to the recently-introduced PDRs (discussed in sections 6 and 7 below) relating to upward extensions, demolition and rebuilding.<sup>35</sup>

### 2.5 Prior approval

The consultation document set out the matters for which prior approval would have to be obtained:

21. In considering which prior approvals to apply we have drawn on those generally accepted in other permitted development rights that deliver new homes in order to deliver quality homes in suitable environments. The proposed prior approvals shown below provide necessary safeguards:

- Similar to other permitted development rights for the change of use to residential:
  - flooding, to ensure residential development does not take place in areas of high flood risk
  - transport, particularly to ensure safe site access
  - contamination, to ensure residential development does not take place on contaminated land, or in contaminated buildings, which will endanger the health of future residents
- To ensure appropriate living conditions for residents:
  - the impacts of noise from existing commercial premises on the intended occupiers of the development
  - the provision of adequate natural light in all habitable rooms

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<sup>32</sup> MHCLG, [Supporting housing delivery and public service infrastructure](#), 3 December 2020: paragraph 75

<sup>33</sup> As above: paragraph 77

<sup>34</sup> As above: paragraph 78

<sup>35</sup> As above

- fire safety, to ensure consideration and plans to mitigate risk to residents from fire
- To ensure new homes are in suitable locations:
  - the impact on the intended occupiers from the introduction of residential use in an area the authority considers is important for heavy industry and waste management<sup>36</sup>

For wider discussion of prior approval and its use, see section 3.4 below.

## 2.6 Developer contributions

The white paper *Planning for the Future* sought views on introducing a new national levy for developer contributions (to be called the Infrastructure Levy) and extending its scope, so that new homes created through PDRs would be eligible for the levy and so contribute towards the cost of new infrastructure.<sup>37</sup>

Planning for the Future's proposals for the Infrastructure Levy are discussed at more length in section 1.10 of the Commons Library briefing [Planning for the Future: planning policy changes in England in 2020 and future reforms](#).<sup>38</sup> For more background information on developer contributions, see the Commons Library briefings [Planning obligations \(section 106 agreements\)](#)<sup>39</sup> and [Community Infrastructure Levy](#).<sup>40</sup>

The consultation document in December 2020 said that responses to the proposal in *Planning for the Future* were being considered and further announcements would be made in due course.<sup>41</sup>

## 2.7 Existing Article 4 directions

As mentioned earlier, the [Town and Country Planning \(Use Classes\) \(Amendment\) \(England\) Regulations 2020](#) brought new use classes into force from 1 September 2020.<sup>42</sup>

The [Explanatory Memorandum to these Regulations](#) confirmed that the savings provisions – which mean that the PDRs based on the use classes in effect on 31 August 2020 (in other words, before these Regulations came into force) would apply until 31 July 2021 – would also apply to relevant Article 4 Directions.<sup>43</sup>

## 2.8 Sensitive sites

The consultation document observes that existing PDRs have not applied in sensitive sites, including conservation areas. It argues, though, that

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<sup>36</sup> MHCLG, [Supporting housing delivery and public service infrastructure](#), 3 December 2020: paragraph 21

<sup>37</sup> MHCLG, [White paper: Planning for the Future](#), August 2020: paragraph 1.19

<sup>38</sup> CBP 8981, 12 January 2021

<sup>39</sup> CBP 7200, 6 September 2019

<sup>40</sup> SN 3890, 19 December 2019

<sup>41</sup> MHCLG, [Supporting housing delivery and public service infrastructure](#), 3 December 2020: paragraph 11

<sup>42</sup> SI 2020/757

<sup>43</sup> [Explanatory Memorandum to the Town And Country Planning \(Use Classes\) \(Amendment\) \(England\) Regulations 2020 \(SI 2020/757\)](#): paragraph 7.10

allowing more diverse uses in conservation areas could make them more attractive and therefore more sustainable, and so, while national parks, areas of outstanding natural beauty and other sensitive sites would continue to be excluded from PDRs, the PDRs proposed here would apply in conservation areas:

... However, some high streets and town centres are designated conservation areas, and therefore include many of the uses that could benefit from the right, and residents that could benefit from the conversions. Such areas may be designated as conservation areas for their architectural and historical value and allowing a more diverse range of uses could attract more people to enjoy them and make them more sustainable. It is proposed that while the right would not apply in other sensitive article 2(3) land, such as national parks and areas of outstanding natural beauty, it would apply in conservation areas. However, in recognition of the conservation value that retail frontage can bring to conservation areas the right would allow for prior approval of the impact of the loss of the ground floor use to residential.<sup>44</sup>

## 2.9 Response to the consultation

As with other proposed planning reforms and the existing PDR for office to residential change of use, these proposals – and especially those relating to change of use from Class E commercial, business and service to residential – proved controversial.

Although some commentators acknowledged a need for more homes and to support struggling high streets, they often cast doubt on the Government's approach, saying that increased PDRs were not the best option. Critics of the Government's approach also suggested that it might have damaging effects on (amongst things) local democracy and community engagement, the quality of the new homes to be created and the historic and natural environment. Some suggested that the proposed changes might undermine the high street rather than support its revival. Others argued that LPAs should be able to seek developer contributions for any new homes created through the new, expanded PDRs, a matter on which the Government has not yet made a decision (see section 2.7 above).

The [Local Government Association criticised](#) the proposals, arguing that they did not support the aspirations (such as greater democratic accountability and transparency, protecting our heritage and planning for beautiful and sustainable places) set out in the white paper *Planning for the Future* and could have unintended and irreversible consequences, undermining local growth strategies and depriving local authorities of developer contributions (section 106 payments).<sup>45</sup>

[Planning magazine](#) remarked that, from the Government's perspective, the proposed changes no doubt seemed a "no brainer" and the increased right to convert commercial property to residential use was

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<sup>44</sup> MHCLG, [Supporting housing delivery and public service infrastructure](#), 3 December 2020: paragraph 19

<sup>45</sup> Local Government Association, [LGA submission to the Ministry of Housing, Communities and Local Government on Supporting Housing Delivery and Public Service Infrastructure](#), 28 January 2021

supported by the Home Builders Federation. But, Planning magazine reported, some planning professionals were expressing concerns, such as reduced control over what happens in town centres, although MHCLG rejected those criticisms:

Allowing unchecked growth of residential will reduce the mix of outlets open in town centres, say other critics, further driving down the footfall for those shops that cling on.

“Residential doesn’t provide any vitality to the high street. Closing off shop fronts just kills the high street,” says John Walker, the former director of planning at Westminster City Council, who is now a consultant at public affairs firm CJT Local.

(...)

An MHCLG spokesperson said: “We disagree with these criticisms which fail to understand the purpose of these measures.

“The proposed High Street Homes permitted development right will support the diversification of our high streets and town centres by allowing more flexibility for much-needed housing, while making the most of existing buildings.”<sup>46</sup>

In its [detailed response to the consultation](#), the RTPI argued (amongst other things) that

- The proposed changes would reduce opportunities for community engagement and democratic oversight and would make it more difficult to identify areas of employment within Local Plans
- The minimum consultation and publicity period should not be reduced to 14 days and the determination period for applications falling within scope should not be reduced to 10 weeks
- Possible unintended consequences of the proposed changes included loss of active frontages in high streets and possible loss of facilities for physical activity such as gyms, swimming pools and other sports and leisure facilities in Class E
- The PDRs should not apply in conservation areas
- Some other matters should be added to prior approval for PDRs, including access to essential services, quality design, ventilation and access to green and open spaces
- The Government should allow existing Article 4 directions to be extended and continue as a transitional provision for these new PDRs
- The potential conversion of large warehouses might lead to unsuitable and unsustainable housing and so for the proposed PDR for conversion from Class E to residential, there should be a size limit of 250 square metres and the right to change B1 uses should be limited to premises which were in B1 use on 3 December 2020

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<sup>46</sup> [“Why permitted development rule changes would herald a flood of residential conversions”](#), Planning, 21 January 2021 (updated 22 January 2021) [Subscription required; Members and their staff may obtain copies of this or other articles by ringing the Commons Library on 020 7219 3666]

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- The PDR for extensions to hospitals and other health service premises should apply only during the response to the Covid-19 pandemic.
- There was no need for the proposed PDR for schools, colleges and universities or for the proposed PDR for prisons.<sup>47</sup>

The [Town and Country Planning Association argued](#) that, although we need new homes and to invigorate the high street, the proposed PDRs were not the right way to do it.

“We absolutely do need more homes and we need to reinvigorate our high streets and town centres. But further expanding permitted development rights is not the way to do it because it risks delivering poor quality homes that undermine people’s health and wellbeing.

(...)

“The Government’s Planning White Paper argued that they wanted to give communities a more meaningful voice in the future of their area. These proposals seem to suggest the Government wants to give communities as little voice as possible.”<sup>48</sup>

In the [Local Government Chronicle](#), the head of planning and practice at the RTPI and the chief executive of the Town and Country Planning Association were quoted as arguing that the changes relating to change of use from Class E to residential could create “a lot of dead frontage” and that expanded PDRs were “not the way” to create necessary housing.<sup>49</sup>

The [Chartered Institute of Housing did not dispute](#) (it said) the need for more homes or the role for residential uses in some high streets and town centres, but did not regard PDRs as the appropriate approach. The Institute was concerned that the proposals would take control from LPAs, impacting on their ability to address specific local needs, and (even though the Government had taken steps to address the identified problems with the quality of some homes created through PDRs) might lead to poor quality housing:

We also believe that these proposals risk delivering poor-quality homes that undermine people’s health, well-being, and quality of life. MHCLG funded research in 2020 into quality standards of homes delivered through permitted development rights (PDR) concluded that such conversions create “worse quality residential environments”. Whilst we acknowledge and welcome that since the publication of this research the government has brought forward legislation to ensure that homes delivered under PDR must meet the nationally described space standards and provide for adequate natural light, these are basic minimums and not standards for quality. The extension of PDR proposed, despite the

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<sup>47</sup> RTPI, [RTPI response to MHCLG Supporting housing delivery and public service infrastructure consultation](#), 27 January 2021

<sup>48</sup> Town and Country Planning Institute, [Further expansion of permitted development rights is not the way to build the homes we need](#), 4 December 2020

<sup>49</sup> “[New permitted development right will ‘accelerate high street decline’](#)”, Local Government Chronicle, 4 December 2020. See also Town and Country Planning Association, [Press Release: Further expansion of permitted development rights is not the way to build the homes we need](#), 4 December 2020.

prior approval matters described, risks the creation of yet more not fit-for-purpose, inadequate housing. In light of government's own focus on design and beauty set out in the Planning White Paper 'planning for the future', we urge the government to consider again the quality and residential amenity of homes which will potentially be created by the 2 proposed extended PRDs. We consider that these proposals risk creating many more poor quality and poorly located homes, in direct contradiction to the government's own aspirations for quality and design.<sup>50</sup>

The [Royal Institute of British Architects also argued](#) against the proposed reforms, saying that they could create a "race to the bottom" and lead to "shoddy, small and inadequate homes":

RIBA President Ben Derbyshire said,

"We need homes that are sustainable, long-lasting, affordable and contribute to the health and happiness of the people that live in them. These proposals would enable homes to be built without any scrutiny - undermining the planning system and resulting in a race to the bottom to create the cheapest possible housing. It is unacceptable that families end up living in developments like these, with not enough space to live well.

If we are serious about tackling the housing crisis, creating homes that last and reforming the high street, we need a properly resourced planning system that enables local authorities to consider the merits of proposals on a case by case basis, not a policy that allows shoddy, small and inadequate homes."<sup>51</sup>

The [Construction Industry Council argued](#) that the proposals could alienate communities by enabling poor quality development without contributing to local infrastructure and called for more safeguards:

CIC said the proposals could alienate communities by allowing inappropriate development to be foisted on them, whilst not making any contribution to local infrastructure. The CIC also expressed concerns over quality and safety standards and the longer term impact on areas by providing easier routes to deliver new homes without proper regard for placemaking and amenity space.<sup>52</sup>

The [British Property Foundation supported](#) the Government's aim of breathing new life into town centres, but they too expressed concerns that the proposed PDR for conversion of commercial, business and service use to residential would work to the long-term detriment of high streets:

We all accept the nub of the issue government is grappling with – how to breathe new life into existing town centres. The starting point for reforms should therefore be on what drives vitality locally. It is accepted that obsolescence and vacancy is a drag on the town centre however we would argue that poorly planned and poor-quality PDR development would be even more damaging.<sup>53</sup>

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<sup>50</sup> Chartered Institute of Housing, [CIH response to MHCLG consultation on supporting housing delivery and public service infrastructure](#), 26 January 2021

<sup>51</sup> Royal Institute of British Architects, [RIBA condemns plan to extend permitted development](#), 14 January 2021

<sup>52</sup> Construction Industry Council, [Government permitted development plans need rethink, says CIC](#), 1 February 2021

<sup>53</sup> British Property Federation, [A one-size-fits-all approach will not save our highstreets](#), 2 February 2021

The business campaigning group [London First suggested](#) that - although it had called for change to the use class order (see section 3.5 later) – the PDR for change of use from Class E commercial, business and service to residential could damage the sustainable futures of high streets and town centres. Housing should not (London First argued) be “pepper-potted” into struggling high streets and town centres; one possible unintended consequence of the proposed changes was that viable businesses would be ousted in favour of residential conversions:

7. Paragraph 5 of the consultation states that, “Where there is a surplus of retail floorspace, quality residential development will help diversify and support the high street.” We agree with this objective which should be met through the planning application process: 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 to a local neighbourhood parade, thrive due to an agglomeration of commercial activities that encourage footfall and thrive off each other. Ad hoc conversion of commercial to residential will detract from 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. This, in turn, will further accelerate the loss of physical retail floorspace and further fuel the demand for online retail. This blanket PDR proposal could therefore have serious consequences for the commercial real estate market and travel patterns. It will also make it challenging for local planning authorities to meet their NPPF responsibilities and strategically plan for employment and retail uses.<sup>54</sup>

The [Chartered Institute for Archaeologists said](#) that successive changes to planning policy were undermining the management and protection of the historic environment. In an open letter with other natural, built and historic environment organisations, the Institute argued that applying the new PDRs to conservation areas and not including design and climate considerations in matters for prior approval would be “extremely damaging”:

The intention to apply these private rights to conservation areas, and to exclude design and climate mitigation and adaptation from the list of very limited matters which councils can think about before giving approval is extremely damaging. Losing control of town centres to private interests will do nothing to secure their comprehensive regeneration in the public interest post the pandemic. Local people are being locked out of any say on the shape and feel of their communities and civic places.<sup>55</sup>

The [Wildlife Trusts described](#) the proposed changes as “alarming”, suggesting that they would lower housing standards and threaten nature and the amount of accessible green space. They would also (the Wildlife Trusts said) “trash local democracy”, leave LPAs unable to require climate mitigation and adaptation measures to be put in place

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<sup>54</sup> London First, [Consultation Response: Supporting housing delivery and public service infrastructure](#), January 2021

<sup>55</sup> Chartered Institute for Archaeologists, [CIfA joins signatories of letter to Government on permitted development rights in England](#), 19 January 2021



before granting planning permission and put conservation areas at risk.<sup>56</sup>

The [Theatres Trust welcomed](#) the commitment to exclude theatres and other cultural venues from the proposed PDRs, but raised concerns about potential negative impacts from other aspects of development.<sup>57</sup>

## 2.10 Changes to go ahead: announcement in March 2021

The [Government announced](#) in March 2021 that the proposed change to enable change of use from Class E commercial, business and service to C3 residential would go ahead. The introduction of a size limit of 1500m<sup>2</sup> to the change of use would (the Government said) “focus the right on medium sized high street sites which are more likely to be suitable for conversion”. It also said that, to protect successful businesses, there would be a requirement that the building had been vacant for three months before the date of application and, to prevent gaming, the right would apply only to buildings which had been in commercial, business and service use for two years.<sup>58</sup> The new PDR is therefore subject to some conditions and limits which were not foreshadowed in the consultation.

The [Town and Country Planning \(General Permitted Development etc.\) \(England\) \(Amendment\) Order 2021](#) came into force on 21 April 2021.<sup>59</sup> Its extent is England and Wales but its application is England only. Transitional arrangements mean that applications for prior approval can be submitted from 1 August 2021 onwards.

The [Explanatory Memorandum](#) to the Order summarises the conditions for commercial to residential change of use relating to previous use, the size limit and the vacancy requirement (for which any closure as a result of Government Covid-19 restrictions does not count) and lists the matters subject to prior approval.<sup>60</sup> The RTPI, Royal Institute of British Architects, Chartered Institute of Builders and Royal Institute of Chartered Surveyors voiced concern that such change of use may lead to poor quality housing and may “pull the rug out from under high street businesses just as they prepare to reopen”.<sup>61</sup>

The announcement in March 2021 also confirmed that, as part of Project Speed, existing PDRs would be amended, to permit larger extensions to existing public buildings such as schools, colleges,

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<sup>56</sup> Wildlife Trusts, [The Wildlife Trusts response: Supporting housing delivery and public service infrastructure](#), 27 January 2021

<sup>57</sup> Theatres Trust, [News: Consultation on Permitted Development Rights](#), 3 February 2021

<sup>58</sup> MHCLG, [Press release: New freedoms to support high streets and fast track delivery of schools and hospitals across England introduced today](#), 31 March 2021

<sup>59</sup> SI 2021/428

<sup>60</sup> [Explanatory Memorandum To The Town And Country Planning \(General Permitted Development Etc.\) \(England\) \(Amendment\) Order 2021: 2021 No. 428](#): paragraphs 7.7 and 7.8

<sup>61</sup> See “[Built environment bodies urge PM to reverse new planning freedoms](#)”, Architects Journal and “[RTPI, RIBA and RICS urge PM to ‘urgently reconsider’ new town centre permitted development right](#)”, Planning, both 6 April 2021

universities, hospitals and (for the first time) prisons.<sup>62,63</sup> The Explanatory Memorandum summarises the conditions, limits and matters requiring prior approval.<sup>64</sup>

Some further changes were made in response to the consultation. In response to concerns about extensions to universities (which are often in sensitive city centre locations) these will now be subject to prior approval.<sup>65</sup> Another new requirement is for a travel plan, where the extension of a school building would lead to an increase in its published admission number.<sup>66</sup> The conditions previously set out in this part of the General Permitted Development Order will continue to apply.<sup>67</sup>

An [article in Planning magazine](#) in April 2021 discussed whether the changes between the consultation and the Order, which it described as “apparent concessions to concerns raised during the consultation”, would reduce the potential harms which commentators had identified.<sup>68</sup>

## 2.11 Aligning PDRs with the new use classes: further consultation in May 2021

In May 2021, the Government launched a [technical consultation on consequential changes to PDRs](#), with the aim (the Government said) of updating specific PDRs to align with the new use classes introduced in September 2020 (discussed in section 3.6 below).<sup>69</sup> The consultation set out proposed minor technical changes at paragraph 13 and what it termed “more significant changes” from paragraph 15. The consultation closed on 3 June 2021.

Amongst the changes proposed in the consultation were:

**Class E (commercial, business and service) use:** the consultation proposed that existing PDRs should be widened, so that where existing PDRs allowed for change of use to a single use falling within the new Class E (such as a shop) they should now allow change to any Class E use. The consultation set out how the PDRs would (it said) be consolidated and simplified and how limitations and conditions might apply, observing that “there could then be some changes to the detail of the limitations in respect of size and matters for prior approval”.<sup>70</sup>

**Uses formerly in the D2 assembly and leisure use class:** the consultation proposed to remove the existing PDRs allowing for change

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<sup>62</sup> For Project Speed, see PM’s Office and 10 Downing Street, [PM: Economy Speech: 30 June 2020](#) and [Press release: PM: A New Deal for Britain](#), 30 June 2020.

<sup>63</sup> MHCLG, [Press release: New freedoms to support high streets and fast track delivery of schools and hospitals across England introduced today](#), 31 March 2021

<sup>64</sup> [Explanatory Memorandum To The Town And Country Planning \(General Permitted Development Etc.\) \(England\) \(Amendment\) Order 2021: 2021 No. 428](#): paragraphs 7.12 - 7.16

<sup>65</sup> As above: paragraph 7.17

<sup>66</sup> As above: paragraph 7.19

<sup>67</sup> As above: paragraph 7.20

<sup>68</sup> [“How changes to the government’s new commercial-to-residential permitted development right are likely to affect its impact”](#), Planning, 15 April 2021

<sup>69</sup> MHCLG, [Open consultation: Technical consultation on consequential changes to permitted development rights](#), 13 May 2021

<sup>70</sup> As above: paragraphs 17 to 20

of use to, or from, former D2 assembly and leisure uses (such as live music venues, cinemas, concert and community halls and swimming pools).<sup>71</sup>

**PDRs for temporary use:** the consultation proposed that the existing PDR for certain temporary uses for up to three years should be retained, to support business start-ups. These temporary uses include the use of premises such as shops, restaurants and cafes and business (and certain others) as (amongst others) shops, restaurants and cafes, business, for health services, or as a public library, public hall or exhibition hall. These PDRs would be recast in terms of their new use classes and would “preserve the protections against the change of use now afforded to former assembly and leisure uses such as cinemas and live music venues”.<sup>72</sup>

An [article in Planning magazine](#) quoted the views of industry commentators, who pointed out that former D2 Assembly leisure uses were now distributed between three use classes - Class E, F2 and sui generis – and so, under the consultation’s proposals, PDRs for change of use would depend on which use class they now fell into.<sup>73</sup>

## 2.12 Further reading

- [“High street revolt over bid to turn city centres into homes from home”](#), Times, 11 February 2021
- [“New Permitted Development Rights Met With Strong Opposition”](#), Homebuilding & Renovating, 4 February 2021
- [“PD changes will deliver homes, but they need to be 'suitably proportioned and located', urges developer”](#), Development Finance Today, 29 January 2021
- Deloitte, [What next for the high street?](#), 25 January 2021
- [“How the government is backing permitted development, city living and new settlements to meet its housebuilding target, by Catriona Riddell”](#), Planning, 20 January 2021
- Pinsent Masons, [Changes to permitted development rights in England to benefit university sector](#), 12 January 2021
- Herbert Smith Freehills, [High streets or housing? Time to decide](#), 8 January 2021
- Womble Bond Dickinson, [Supporting housing delivery with a new national permitted development right](#), 6 January 2021
- Lambert Smith Hampton, [Commercial to housing: what could the new permitted development rights mean for town centres?](#), 11 December 2020

Subscription required for some titles. Members and their staff may obtain copies of these articles from the Commons Library on 020 7219 3666.

<sup>71</sup> MHCLG, [Open consultation: Technical consultation on consequential changes to permitted development rights](#), 13 May 2021: paragraph 22

<sup>72</sup> As above: Part 4: temporary buildings and uses

<sup>73</sup> [“Consultation proposes removing PD rights for some leisure and easing casino conversions”](#), Planning, 17 May 2021. See also Lichfields, [England Planning News May 2021: More changes to permitted development rights revealed](#)

## 3. Change of use

### 3.1 The use class system

The rules relating to when a change of use for a building does and does not require planning permission are set out in:

- the [Town and Country Planning \(Use Classes\) Order 1987](#) (as amended)<sup>74</sup> and
- the [Town and Country Planning \(General Permitted Development\) Order 2015](#)<sup>75</sup>

The Town and Country Planning (Use Classes) Order 1987 puts uses of land and buildings into various categories known as “use classes”. The categories give an indication of the types of use which may fall within each use class. It is only a general guide and it is for LPAs to determine, in the first instance, depending on the individual circumstances of each case, which class a particular use falls into.

Change of use within classes does not normally require planning permission.

A change of use of land or buildings will require planning permission if it constitutes a “material change of use”.<sup>76</sup> There is no statutory definition of material change of use. Whether a material change of use has taken place is a matter of fact and degree and this will be determined on the individual merits of a case. In the first instance this will be determined by the relevant LPA.

Until 1 September 2020, there were four main categories, then split into subclasses:

- Class A covered shops and other retail premises
- Class B covered offices, workshops, factories and warehouses
- Class C covered residential uses and
- Class D covered non-residential institutions and assembly and leisure uses.

### 3.2 “Sui generis” use

Not every use of building is put into a use class under this legislation; those that are not are “sui generis”. If a building or business is sui generis or the new use is sui generis, then there will normally need to be a planning application to change the use under the procedures set out in the Town and Country Planning Act 1990.

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<sup>74</sup> SI 1987/764 and [The Town and Country Planning \(Use Classes\) \(Amendment\) \(England\) Order 2010](#), SI 2010/653

<sup>75</sup> SI 2015/596

<sup>76</sup> MHCLG, [Guidance, When is permission required?](#) Paragraph 001, Revised 6 March 2014

Being sui generis does not preclude a change of use; it just means that a planning application will normally need to be made so that the LPA can consider the implications of change of use in detail.

### 3.3 When does change of use require planning permission?

Broadly speaking (but with certain exceptions) changes of use between different classes within the Use Classes Order require planning permission.

Under the 2015 Order, planning permission is not needed for changes in use of buildings within each subclass and for certain changes of use between some of the classes. If there are no permitted development rights for change of use between categories set out in the 2015 Order, then full planning permission for any change of use will be necessary to prevent the risk of enforcement action.

The [Planning Practice Guidance \(PPG\) on when permission is required](#) sets out circumstances in which a change of use requires planning permission.<sup>77</sup> The [Planning Portal](#) website sets out all the classes, and which changes of use between them are permitted.<sup>78</sup> The Planning Portal also provides [a table of the changes of use](#) allowed under permitted development.<sup>79</sup>

The rules relating to when a change of use for a building does and does not require planning permission are set out in:

- The [Town and Country Planning \(Use Classes\) Order 1987](#)<sup>80</sup> and
- The [Town and Country Planning \(General Permitted Development\) Order 2015](#)<sup>81</sup>

### 3.4 Prior approval

For many PDRs which relate to change of use of buildings there is a prior approval system, set out in the 2015 Order, which requires the LPA to approve technical aspects of the development, such as its siting, design and transport and highways issues. These pre-approval requirements vary depending on the exact type of change of use PDR. If the LPA decides to refuse prior approval on these issues then the change of use may not go ahead.

Further information about prior approval, what it is and when it is required is provided in the [PPG on when permission is required](#).<sup>82</sup>

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<sup>77</sup> MHCLG, [Guidance: When is permission required?](#) 6 March 2014, updated 15 June 2018

<sup>78</sup> Planning Portal, [Change of use: use classes](#) (undated, accessed 5 February 2021)

<sup>79</sup> Planning Portal, [Planning permission: Changes of use not requiring planning permission](#) (undated, accessed 5 February 2021)

<sup>80</sup> SI 1987/764, as amended

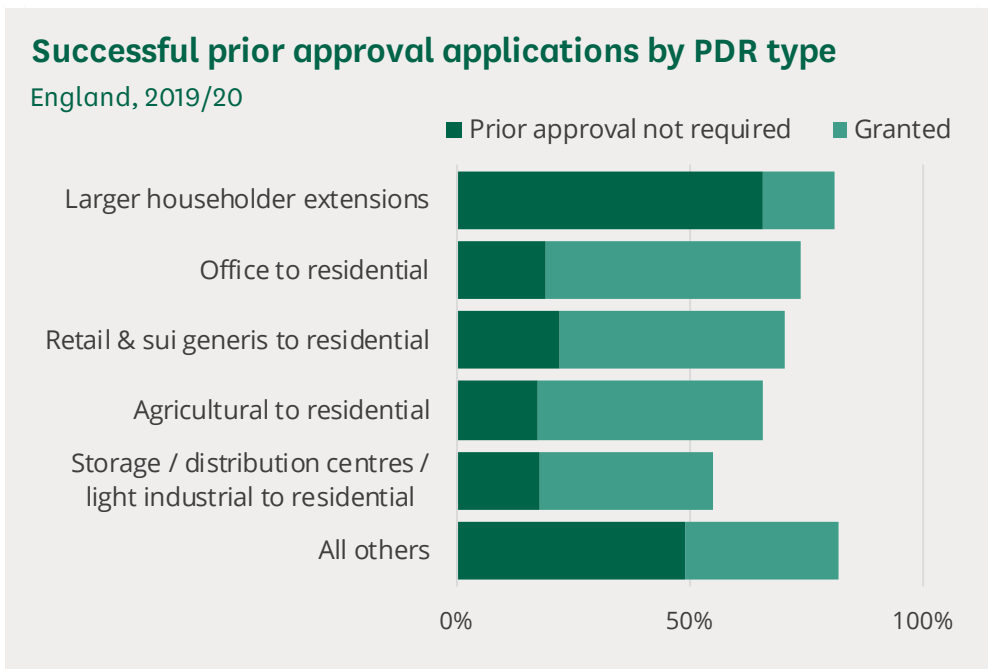
<sup>81</sup> SI 2015/596

<sup>82</sup> MHCLG, [Guidance: when is permission required?](#) 6 March 2014, updated 15 March 2019

There were around 28,800 applications for prior approval in England in 2019/20. Of these, around 16,000 (56%) were found not to require prior approval, around 6,800 (23%) had prior approval granted and 6,000 (21%) had prior approval refused. This means that 79% of applications were successful – either because they didn’t need prior approval, or because they had prior approval granted. Just over half (53%) of those applications that did require prior approval had it granted.

The majority of prior approval applications in 2019/20 were for larger householder extensions: 69% of the total. 8% of applications were for agricultural to residential change of use, 6% were for office to residential change of use, and 2% were for retail and sui generis uses to residential change of use. As the chart overleaf shows, applications for larger householder extensions were more likely to be found not to require prior approval, and as such tended to be more successful than other types of prior approval applications.<sup>83</sup>

Prior approval from the LPA is required before certain permitted development changes of use can go ahead.



Source: MHCLG, [Live Table PDR2](#), 17 December 2020

Further statistics on PDRs are available from MHCLG’s quarterly [Planning applications in England](#) publication, or from its [Live Tables on PDRs](#).

### 3.5 Calls for change to the Use Class Order

It had been argued for some time that the use classes which had been in place since 1987 had not kept pace with changing patterns of use, particularly in town centres and high streets.

In its [Planning Manifesto for High Streets and Town Centres](#), the business campaigning group London First (for example) argued that a radical overhaul of the use class order had long been needed, to create

<sup>83</sup> MHCLG, [Live Table PDR2](#), 21 March 2019

a more agile system, increase diversity and responsiveness to the market and reduce the dependence on retail:

Despite these significant trends [in retail], planning policies in many local plans are still fixated on protecting traditional A1 retail frontages. For high streets and town centres to remain healthy and vibrant, the Government and the GLA need to give direction in national and regional strategic policy that it is acceptable for high streets to be less dependent on retail and have a greater diversity of uses. Flexibility should be encouraged.

Pivotal to such planning flexibility is a radical overhaul of the Use Classes Order so that it is no longer necessary to seek planning permission to change from one town centre use to another. There should be a 'catch all' use class for town centre uses including retail, business, leisure, cultural and community uses in the current use classes of A1-A5, B1, D1, D2 and sui generis (e.g. nail bars). The objective for this new class of town centre uses should be activities that create incremental footfall throughout the day/night, rather than the type of frontage they have or the type of goods or service that are available. It should not be the purpose of the Use Classes Order to protect residential amenity; instead more effective use of the licensing regime 5 and planning conditions can achieve this in parallel with the roll out of Town Centre Management Strategies.<sup>84</sup>

Town centre management strategies should (London First argued) identify zones for Article 4 directions, to prevent PDRs being exercised where ad hoc change of use to residential might harm a town centre.<sup>85</sup>

In the white paper [Planning for the Future](#) in August 2020, the Government argued that the updated use class order and its associated PDRs would help high streets and town centres bounce back after the Covid-19 pandemic, by creating more flexibility:

5.3. Nevertheless, we do want to make rapid progress toward this new planning system. We are already introducing a new Use Class Order, with associated permitted development rights, to make easier for businesses to change use without the need for planning permission to support our high streets and town centres bounce back following the COVID-19 pandemic. We have also created new permitted development rights to enable more new homes to be built on top of buildings and the demolition and rebuild of vacant buildings for housing, without the need for usual planning permission<sup>86</sup>

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<sup>84</sup> London First, [Planning Manifesto for High Streets and Town Centres](#), January 2020: pages 4 - 5

<sup>85</sup> As above: page 3

<sup>86</sup> MHCLG, [White paper: Planning for the Future](#), August 2020: paragraph 3.23

### 3.6 New use classes from 1 September 2020

From 1 September 2020, Classes A and D have been revoked in their entirety, Class B has been amended and three new classes have been added:

- Class E: commercial, business and service
- Class F.1: learning and non-residential institutions
- Class F.2: Local community

The [Planning Portal outlines each class and subclass](#) and what it entails.<sup>87</sup>

The [Town and Country Planning \(Use Classes\) \(Amendment\) \(England\) Regulations 2020](#) came into force on 1 September 2020.<sup>88</sup> Their territorial extent is England and Wales but their territorial application is England.

These Regulations created new use classes - a broad Class E (commercial, business and service), Class F1 (learning and non-residential institutions) and Class F2 (local community) – and so obviate the need to obtain planning permission for some changes between various non-residential uses required under the previous use classes. Shops will fall into Class E (commercial, business and service) or Class F2 (local community) depending on their size, with smaller shops in the local community category. The [Explanatory Memorandum to these Regulations](#) suggested that this recognises the role of small, local shops in meeting day to day shopping needs. Also according to the Explanatory Memorandum, these reforms will help to create vibrant, mixed use town centres.

These Regulations also moved some uses – including what used to be class A4 drinking establishments, class A5 hot food takeaways and D2 cinemas, concert, dance and bingo halls - out of the previous use classes and into the “sui generis” category. This provides some measure of protection against change of use, in that any change of use cannot be done under PDRs and will require planning permission.

The [Explanatory Memorandum to these Regulations](#) also said that transitional provisions (retaining the effect of the PDRs based on use classes in place before these Regulations came into force) would apply until 31 July 2021, when new, revised PDRs for change of use would be introduced. A consultation on those revised PDRs was launched in December 2020 (discussed in section 2 above).

### 3.7 Comparison of old and new use classes

This table seeks to compare the old and new use classes. It may not be definitive or exhaustive and so should be used only as a guide.

Parts of the use class order dealing with non-residential uses were amended from 1 September 2020.

<sup>87</sup> Planning Portal, [Change of use: use classes](#) (undated)

<sup>88</sup> SI 2020/757



## Comparison of old and new use classes

This table seeks to compare the old and new use classes. It may not be definitive or exhaustive and so should be used only as a guide.

	Previous uses	Changes from 1 September 2020
<b>Class A</b>	<ul style="list-style-type: none"> <li>• A1 Shops</li> <li>• A2 Financial and professional services</li> <li>• A3 Restaurants and cafés</li> <li>• A4 Drinking establishments</li> <li>• A5 Hot food takeaways</li> </ul>	<p>Class A revoked</p> <ul style="list-style-type: none"> <li>• Certain uses now moved into Class E: <ul style="list-style-type: none"> <li>o A1 shops (but certain smaller shops now in F2: local community)</li> <li>o A2 Financial and professional services</li> <li>o A3 Restaurants and cafés</li> </ul> </li> <li>• Remaining classes – A4 drinking establishments and A5 hot food takeaways – now in the sui generis category</li> </ul>
<b>Class B</b>	<ul style="list-style-type: none"> <li>• B1 Business: <ul style="list-style-type: none"> <li>o B1(a) Offices - Other than a use within Class A2 (see above)</li> <li>o B1(b) Research and development of products or processes</li> <li>o B1(c) Industrial processes</li> </ul> </li> <li>• B2 General industrial</li> <li>• B8 Storage or distribution</li> </ul>	B1 now in Class E
<b>Class D</b>	<ul style="list-style-type: none"> <li>• D1 Non-residential institutions</li> <li>• D2 Assembly and leisure</li> </ul>	<p>Class D revoked</p> <ul style="list-style-type: none"> <li>• D1 non-residential institutions and D2 assembly and leisure uses which are “more likely to involve buildings which are regularly in wider public use” - such as gyms, nurseries and health centres - moved into Class E</li> <li>• Cinemas, concert, dance and bingo halls removed from Class D2 and added to the sui generis category</li> </ul>
<b>New Class E: commercial, business and service</b>		<p>Incorporates the former:</p> <ul style="list-style-type: none"> <li>• A1 Shops</li> <li>• A2 Financial and professional services</li> <li>• A3 Restaurants and cafés</li> <li>• B1 Offices</li> <li>• D1 non-residential institutions and D2 assembly and leisure uses which are “more likely to involve buildings which are regularly in wider public use”, such as gyms, nurseries and health centres</li> </ul>
<b>New Class F.1: learning and non-residential institutions</b>		<p>Incorporates former D1 uses “which are more likely to involve buildings which are regularly in wider public use” such as schools, libraries and art galleries.</p>
<b>Local community</b>		<p>Incorporates:</p> <ul style="list-style-type: none"> <li>• Former D2 uses which provide for group activities of a more physical nature: <ul style="list-style-type: none"> <li>o Swimming pools</li> <li>o Skating rinks</li> </ul> </li> </ul>

- o Areas for outdoor sports
- o Other use of buildings where this is principally by the local community
- Small local shops (with conditions relating to type of goods sold, size and proximity to other local shops). Other shops will fall within the Class E commercial etc class.

**Sui Generis**

- Theatres
- Amusement arcades/centres or funfairs
- Launderettes
- Fuel stations
- Hiring, selling and/or displaying motor
- Taxi businesses
- Scrap yards, or a yard for the storage/ distribution of minerals and/or the breaking of motor vehicles
- 'Alkali work' (any work registerable under the Alkali, etc. Works Regulation Act 1906 (as amended))
- Hostels (providing no significant element of
- Waste disposal installations for the incineration, chemical treatment or landfill of hazardous waste
- Retail warehouse clubs
- Nightclubs
- Casinos
- Betting offices/shops
- Pay day loan shops
- Other uses become 'sui generis' where they fall outside the defined limits of any other use class

As before, but with the addition of:

- A4 Drinking establishments
- A5 Hot food takeaways
- Former D2 cinemas, concert, dance and bingo halls

### 3.8 Response to changes to the Use Class Order

In its evidence to the Housing, Committee and Local Government select committee's [inquiry into supporting our high streets](#) after Covid, [the RTPI noted](#) that the new use classes had created greater flexibility but an unintended consequence was that retail businesses would be able to operate from what would formerly have been B1 business premises without the need for consent. Although the RTPI welcomed the introduction of more residential accommodation to town centres, here too it argued there should be some controls, to ensure that the location of new residential accommodation did not prejudice plans to support and improve the town centre economy. Residential incursions into key commercial areas might (the RTPI suggested) frustrate plans to refocus economic activity.<sup>89</sup>

<sup>89</sup> RTPI, [Written evidence submitted by the Royal Town Planning Institute \[SHS 003\]](#), August 2020

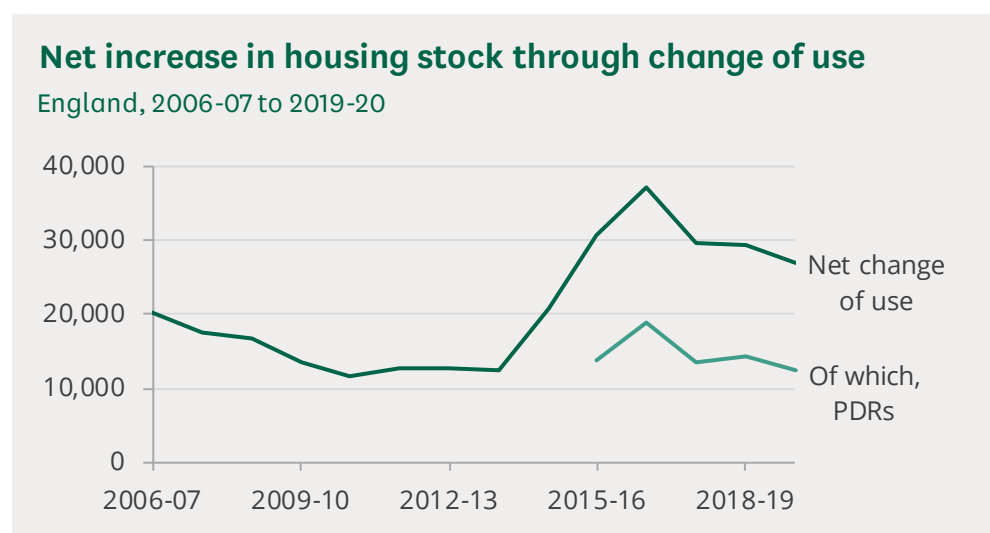
## 4. Statistics: residential gains from change of use

MHCLG publishes statistics on the components of new housing supply, including gains from change of use in general and PDRs in particular.<sup>90</sup> A total of 72,980 new dwellings were added to the housing stock through PDRs over the five years between 2015-16 and 2019-20.

The chart below shows the number of new dwellings provided through change of use since 2006-07. Data on PDRs is only available from 2015-16 onwards, but the available data suggests that the expansion of PDRs has driven a substantial increase in change of use. The number of new homes supplied through change of use almost tripled. The number of new homes supplied through change of use almost tripled from 12,520 dwellings in 2013-14 to a high point of 37,190 in 2016-17.

2016-17 was also the peak year for delivery through PDRs (18,890 homes were delivered through PDRs that year). Delivery through PDRs has fallen since then, decreasing by 35% between 2016-17 and 2019-20. Delivery through all change of use also fell by 28% in this period, although delivery is still much higher than it was before 2015.

A net total of 26,930 new homes was delivered through change of use in 2019-20, of which 12,350 were delivered through PDRs. PDRs have accounted for roughly half of all change of use over the five years for which data is available.



Source: MHCLG, [Live Table 120](#)

Note: The change of use figure is net of dwellings lost through change of use (i.e. residential dwellings changing to another use category).

The increase in homes delivered through change of use has contributed to the overall supply of new homes. In 2019-20, a total of 243,770 new homes were added to the housing stock – an increase of 78%

<sup>90</sup> MHCLG, [Housing supply: net additional dwellings, England: 2019 to 2020](#), 25 November 2020; MHCLG, [Live Table 120](#)

compared with 2013-14. New build completions increased by 69% in this period, with much of the remaining increase accounted for by change of use.

The table below shows the different types of PDR used to create new homes between 2015-16 and 2019-20. Office to residential conversions were the largest category by a substantial margin, accounting for 89% of all PDR conversions in the five-year period.

New housing created through Permitted Development Rights, 2015-16 to 2019-20		
Number of homes, England		
Type of PDR	Total five-year delivery	% of total
Office to residential	64,798	89%
Agricultural to residential	3,090	4%
Storage to residential	724	1%
Unspecified	558	1%
Light industrial to residential	226	0%
Any other	3,585	5%
<b>Total</b>	<b>72,981</b>	

Source: MHCLG, [Live Table 120](#)

Some local authorities have seen more take-up of PDRs than others. The table overleaf shows the local authority areas with the most new homes delivered through PDRs between 2015-16 and 2019-20. Croydon has gained the most new homes through PDRs since 2015-16 – a total increase of 3,217 new homes.

Some local authorities have made considerably less use of PDRs. Around 15% of local authorities have delivered over 500 homes through PDRs over the five-year period, while 32% have delivered fewer than 100 homes in this way.

Use of PDRs partly reflects the size of the local authority and its level of housing need, but not entirely. Other local authorities with relatively large, growing populations have made little use of PDRs.

## New housing delivered through PDRs: top 20 local authorities

New homes delivered, five-year total, 2015-16 to 2019-20

Local authority	Total	Local authority	Total
1 Croydon	3,217	11 Hillingdon	1,003
2 Birmingham	1,760	12 Leeds	962
3 Bristol	1,383	13 Reading	952
4 Sheffield	1,383	14 Harlow	930
5 Harrow	1,356	15 Bracknell Forest	911
6 Hounslow	1,241	16 Luton	889
7 Barnet	1,151	17 Maidstone	853
8 Bradford	1,121	18 Lambeth	809
9 Slough	1,063	19 Sutton	801
10 Nottingham	1,057	20 Trafford	794

Source: MHCLG, [Live Table 123](#)

## 5. In detail: office to residential conversions

The PDR for change of use from office to residential was introduced in May 2013 as a temporary measure and made permanent in April 2016. It has proved controversial, with some commentators arguing that (amongst other things) it has led to the creation of some poor quality homes. The Government, though, insists that it has provided much-needed housing.

### 5.1 The temporary PDR

In April 2011, the coalition Government [consulted on a proposal](#) to grant PDRs allowing change use of buildings from commercial to residential use, with the aim of providing more housing.<sup>91</sup>

The [Government's response to this consultation](#) was published in July 2012. In it, the Government said that it would include a new policy in the National Planning Policy Framework to direct LPAs to normally approve planning applications for change from commercial to residential use.<sup>92</sup>

In January 2013, the Government announced that it would introduce new PDRs to allow change of use from B1(a) office to C3 residential.<sup>93</sup> A [letter to chief planning officers](#) confirmed that the new rights would run for a period of three years from the date of coming into force.<sup>94</sup> The PDR was brought into force on 30 May 2013 by the (now superseded) [Town and Country Planning \(General Permitted Development\) \(Amendment\) \(England\) Order 2013](#).<sup>95</sup>

In April 2013, the specialist publication *Planning* reported a study by Savills which suggested that in some parts of the country it would not be economic for offices to be converted into homes.<sup>96</sup>

### 5.2 Exemptions from the temporary PDR

Local authorities were given the chance to apply for exemption from this Order before it came into force. Seventeen local authorities (mostly London Boroughs), as set out in the Order, gained an exemption.<sup>97</sup> [Maps of the exempted areas](#) are available on the gov.uk website.

The office to residential change of use PDR was originally a temporary one, but was made permanent from 6 April 2016.

<sup>91</sup> DCLG, [Relaxation of planning rules for change of use from commercial to residential: Consultation](#), April 2011

<sup>92</sup> DCLG, [Relaxation of planning rules for change of use from commercial to residential: Summary of consultation responses and the Government's response to the consultation](#), July 2012

<sup>93</sup> [HC Deb 24 January 2013 c16WS](#)

<sup>94</sup> As above

<sup>95</sup> SI 2013/1101. DCLG, [New measures coming into force ensure the very best use is made of empty and underused buildings](#), 9 May 2013

<sup>96</sup> "[Office-to-resi changes 'will create north-south opportunity divide'](#)" *Planning*, 23 April 2013

<sup>97</sup> Article 3 of the [Town and Country Planning \(General Permitted Development\) \(Amendment\) \(England\) Order 2013](#) (SI 2013/1101) and Article 7 of the [Town and](#)

A case was brought in the High Court to challenge the Secretary of State's decision not to grant exemptions to these new rules for the London Boroughs of Islington, Richmond and Camden.<sup>98</sup> In December 2013, Judge Mr Justice Collins dismissed the judicial review claim and said that the Government's actions had not been unlawful.<sup>99</sup> Following the court case, the Government reviewed the use of Article 4 directions established by some councils to try to block the PDR. In a [Written Statement in February 2014](#), the then Planning Minister, Nick Boles, said he had requested that Islington and Broxbourne councils make their directions more targeted.<sup>100</sup>

The exemptions (many of which apply to London boroughs) were removed with effect from 31 May 2019, although many were covered by Article 4 Directions after that; the [consultants Lichfields identified those areas](#) which had made Article 4 Directions as at February 2018.<sup>101</sup> In March 2016, the Mayor of London published a [Central Activities Zone supplementary planning guidance](#) to provide guidance on how to maintain a balance between office and residential development and to set out how London boroughs could seek an Article 4 direction to remove the PDR so that it did not apply in certain areas.<sup>102</sup>

### 5.3 The permanent PDR

The temporary PDR allowing change of use from office to residential use without requiring planning permission had been due to expire in May 2016 but, in July 2014, the [technical consultation on planning](#) proposed that it should be placed on a more permanent basis.

The [Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) Order 2016](#) (the 2016 Order) therefore made it permanent, from 6 April 2016.<sup>103</sup> The 2016 Order included a new condition to allow LPAs to consider the "impacts of noise from commercial premises on the intended occupiers of the development". Another new criterion specified that any office to residential change of use would have to be completed within three years of the developer getting prior approval from the LPA.

Following the Government's [October 2015 press release](#) it had been expected that the regulations would extend the PDR to allow, for the first time, applicants to demolish offices to then build housing.<sup>104</sup> This was not done in the regulations.

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[Country Planning \(General Permitted Development\) \(England\) \(Amendment\) Order 2016](#) (SI 2016/332)

<sup>98</sup> For more information see "[Office to residential scheme comes under fire at High Court](#)", Inside Housing, 4 December 2013.

<sup>99</sup> "[London boroughs lose office-to-homes High Court legal challenge](#)" Planning, 20 December 2013

<sup>100</sup> [HC Deb 6 February 2014 c29WS](#)

<sup>101</sup> Lichfields, [Article 4 Directions – Exemptions for the Exempt](#), 9 February 2018

<sup>102</sup> Mayor of London, March 2016

<sup>103</sup> SI 2016/332

<sup>104</sup> DCLG, [Press release: Thousands more homes to be developed in planning shake up](#), 13 October 2015

Technical information and the policy background to the changes is set out in the [explanatory memorandum](#) to the 2016 Order.

## 5.4 What has been the impact of office to residential change of use?

### In a nutshell

- There has been some criticism of the effects of this PDR, with critics arguing that, as such changes of use do not go through the planning system, they may lead to poor quality (and possibly cramped) housing and, as developer contributions cannot be sought, they do not yield contributions to support affordable housing. Concerns have also been voiced about the consequent loss in office space.
- The then Housing Minister, Kit Malthouse, argued, though, in January 2019 that this PDR has led to the creation of more than 42,000 homes in the three years to March 2018 (meeting fire safety and other building regulations) and that the National Planning Policy Framework would promote good design. By March 2020, around 64,800 new homes had been delivered through office to residential PDRs.

## 5.5 Concerns about the PDR

The ongoing controversy about the consequences of office to residential conversions came to the fore again in April 2019, when the Shadow Housing Minister, John Healey, [said that Labour would scrap this PDR](#), which had (he said) created slums.<sup>105</sup> Such concerns are not new, though, and have been expressed since the PDR was first created as a temporary measure and again when it was made permanent.

### Poor quality homes

The Royal Institute of Chartered Surveyors (RICS) in May 2018 published a [report on the implications of extending PDRs](#). The report observed that the quality of office to residential schemes ranged from high to extremely poor, with PDR schemes being “significantly worse” than units which had been through the full planning process:

The quality of these schemes varied enormously. There were some high-quality developments. However, PD has also allowed extremely poor-quality housing to be developed. Comparison with residential units that were permitted under the full planning process showed PD residential quality was significantly worse.<sup>106</sup>

Planning magazine in April 2018 reported the view of spokespeople for RICS and MHCLG (respectively) calling for the policy to be re-examined and defending it.<sup>107</sup>

<sup>105</sup> “[Labour pledges to scrap office conversion rules](#)”, Inside Housing, 24 April 2019

<sup>106</sup> RICS, [Extending permitted development rights in England: the implications for public authorities and communities](#), May 2018: page 6

<sup>107</sup> “[Office conversion rights producing poor-quality homes, surveyors warn](#)”, Planning, 30 April 2018



## Lack of affordable housing

A [briefing by London Councils](#) in August 2015 indicated that it did not support making the PDR permanent, noting (for example) the loss of key office accommodation and of new affordable housing supply.<sup>108</sup>

[Planning magazine reported in November 2018](#) on some of the criticisms of PDR – particularly in the context of office to residential conversions – that had emerged from a Local Government Association survey. It was said that 10,500 affordable homes had been lost as developer contributions on such conversions could not be sought:

Analysis of [recent government figures](#) by the LGA suggests that the lack of developer contributions under permitted development rights has led to the loss of 10,500 affordable homes across England in the last three years.

The association warned that councils are being forced to deal with increased demands on public services created by new development without any contributions from developers towards affordable housing or infrastructure such as roads, schools and health services.<sup>109</sup>

In January 2019, Planning reported that - following the launch of the Government consultation on (amongst other things) extending PDRs to shop to residential conversions - the RTPI and others had voiced concerns about the quality of homes created through PDRs and (again) the lack of affordable housing contributions.<sup>110</sup>

## Impact on the built environment

In February 2016, the House of Lords Select Committee on the Built Environment, in its [report on building better places](#), found that making the PDR permanent might harm the built environment. It remarked, too, that it might undermine some areas' initiatives around physical and economic regeneration. The committee also suggested that the Article 4 regime might be too restrictive and local authorities might need more scope to respond to local circumstances.<sup>111</sup>

In [its response](#), the Government agreed that development ought to be sustainable, but reiterated that making the PDR permanent could deliver new homes.<sup>112</sup> It argued, too, that the Article 4 process was neither costly nor onerous.<sup>113</sup>

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<sup>108</sup> London Councils, [The Impact of Permitted Development Rights for Office to Residential Conversions](#), August 2015

<sup>109</sup> "[Councils air permitted development extension concerns](#)", Planning, 28 November 2018

<sup>110</sup> "[Planning and housing bodies call for halt to residential PD rights extension](#)", Planning, 28 January 2019

<sup>111</sup> Select Committee on National Policy for the Built Environment, [Building better places](#), 19 February 2016, HL Paper 100 2015-16: pages 37-8

<sup>112</sup> [Government Response to the Report of the House of Lords Select Committee on the Built Environment](#), Cm 9347, November 2016 : page 13

<sup>113</sup> As above : pages 13-4

## Loss of office space

In February 2019, Planning reported on a report from the think tank Centre for Cities which was also critical of some of the effects of office to commercial conversions:<sup>114</sup>

“Not only does PDR have the potential to squeeze the amount of commercial space available – a key ingredient in the rebirth of a number of city centres – but it does so without taking spatial planning into account. Individual developers are able to convert specific properties without due consideration to the wider balance of commercial and residential space in a city centre,” the report says.

The document says any conversions undertaken “should be done in the context of a wider strategy for the city centre. All cities that would like one should be allowed to exempt their city centres from PDR, if they would like to.”<sup>115</sup>

The Government, though, maintains that the PDR plays a part in delivering much-needed homes. In response to a [PQ in January 2019](#), the Housing Minister, Kit Malthouse, said that the PDR had delivered more than 42,000 homes (which met fire safety and other building regulations) and the National Planning Policy Framework would promote good design.<sup>116</sup>

As discussed in section 4 here, new homes have continued to be delivered through PDRs. Over the five years to March 2020, around 64,800 new homes were delivered through office to residential conversions under a PDR.

## Live music venues

Another area of concern was live music venues, as there had been some instances of residents of newly-converted residential accommodation complaining of noise from neighbouring venues.

In [reply to a PQ in April 2018](#), the then minister of state for digital and creative industries, Margot James, said that the Agent of Change principle would be included in the National Planning Policy Framework, to help protect music venues when new housing is built.<sup>117</sup>

The NPPF now reflects the Agent of Change principle. It speaks of effective integration of new development and existing businesses, including music venues and says that “where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed”.<sup>118</sup>

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<sup>114</sup> Rebecca McDonald and Paul Swinney, [City centres: past, present and future: Their evolving role in the national economy](#), Centre for Cities, February 2019

<sup>115</sup> “[Demolish derelict buildings and block PD rights to revive city centres, report says](#)”, Planning, 19 February 2019.

<sup>116</sup> [PQ 213165, 31 January 2019](#)

<sup>117</sup> [PQ 136076, 25 April 2018](#)

<sup>118</sup> MHCLG, [National Planning Policy Framework](#), CP 48, February 2019: paragraph 182

The [PPG on plan-making](#) mentions the agent of change principle when discussing sustainability appraisals and site allocation.<sup>119</sup>

## 5.6 Natural light and space: new requirements for permitted development

As noted just above, concerns have been expressed about the quality of some homes created through PDRs.

In December 2020, the planning minister, Christopher Pincher, [described recent measures](#) to ensure PDRs would deliver good quality homes:

To ensure that all homes delivered under permitted development rights in England are quality homes we have recently introduced legislation to require adequate natural light in all habitable rooms and that, in future, all new homes delivered through the rights must meet the nationally described space standards.<sup>120</sup>

### Natural light

The [Town and Country Planning \(Permitted Development and Miscellaneous Amendments\) \(England\) \(Coronavirus\) Regulations 2020](#) came into force on 24 June 2020, covering three areas of PDRs: temporary use of land, upward extensions and markets.<sup>121,122</sup> They also amended the General Permitted Development Order, so that each individual PDR in force at the time - such as office to residential (Class O) – now requires “adequate natural light in all habitable rooms”. This will be a matter for consideration at prior approval. More detail is in the [Explanatory Memorandum to the Regulations](#).<sup>123</sup>

Where other PDRs for the creation of new homes have since been introduced – such as the creation of new dwellings through upward extensions - they also require prior approval consideration of natural light.

### Space standards

The [Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) Regulations 2020](#)<sup>124</sup> will, from 6 April 2021, require all new homes created under PDRs to comply “as a minimum” with [the nationally described space standards](#).<sup>125</sup>

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<sup>119</sup> MHCLG, [Guidance: Plan-making](#), 13 September 2018, updated 21 July 2020: paragraph 043

<sup>120</sup> [PO 124645, 8 December 2020](#)

<sup>121</sup> SI 2020/632, amending the [Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#) (SI 2015/596)

<sup>122</sup> These PDRs are discussed in more depth in the Commons Library briefing [Planning for the Future: planning policy changes in England in 2020 and future reforms](#) (CBP 8981, 12 January 2021).

<sup>123</sup> [Explanatory Memorandum to the Town and Country Planning \(Permitted Development and Miscellaneous Amendments\) \(England\) \(Coronavirus\) Regulations 2020](#) (SI 2020/632)

<sup>124</sup> SI 2020/1243

<sup>125</sup> MHCLG, [Statutory guidance: Technical housing standards – nationally described space standard](#), 27 March 2015

## 6. In detail: upward extensions

It had long been the Government's aim to broaden PDRs to enable owners to extend their properties upwards.

In February 2016, for example, the Government and the Mayor of London launched a [consultation on upward extensions in London](#).<sup>126</sup> A year later, the housing white paper [Fixing our broken housing market](#) proposed upward extensions as one means of creating higher-density housing.<sup>127</sup>

The Commons Library briefing [What next for planning in England? The National Planning Policy Framework](#) surveys some of the main policy changes reflected in the revised NPPF in 2018/19.<sup>128</sup> As section 15 of that briefing explains at more length, under *making effective use of land*, the [National Planning Policy Framework](#) now says that planning policies and decisions should support opportunities to use the airspace above existing buildings, by allowing upward extensions in certain situations.<sup>129</sup>

This PDR has, though, attracted some controversy.

### 6.1 Consultation in October 2018

In October 2018, MHCLG [launched a consultation](#) aimed (it said) at supporting the high street by (amongst other things) increasing PDRs. One of the changes proposed there was to allow certain types of building to be extended upwards:

We propose a new permitted development right to extend certain existing buildings upwards to provide additional, well designed, new homes to meet local housing need. National planning policy is clear that to support housing delivery we should make effective use of previously developed land and buildings, including the airspace above existing buildings, to create new homes. This proposal is to create much needed additional new homes which fit within the existing streetscape and can enhance the local area.<sup>130</sup>

In its [response to this consultation](#), the RTPI argued against the extension of PDRs and against a PDR for upwards extensions, identifying a number of potential drawbacks, including poorly-designed dwellings:

23. The change would have a major impact on existing occupiers and neighbours without the 'normal' democratic say through a planning application. This would almost certainly lead to enforcement complaints and difficulty arbitrating whether the development is PD or not.

24. Additional potential impacts and issues include:

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<sup>126</sup> DCLG and Mayor of London, [Consultation on upward extensions in London](#), February 2016

<sup>127</sup> DCLG, [Fixing our broken housing market](#), Cm 9352, February 2017: paragraph 1.53

<sup>128</sup> CBP 8260, 5 October 2018

<sup>129</sup> MHCLG, [National Planning Policy Framework](#), CP 48, February 2019: paragraph 118

<sup>130</sup> MHCLG, [Planning Reform: Supporting the high street and increasing the delivery of new homes](#), October 2018: paragraph 1.5

- Fire regulations issues
- Building regulations issues
- Land assembly issues i.e. some buildings may be on a long lease hold, others freehold etc.
- Practical issues with regard to construction, particularly above high street shops which have void roof spaces with cross beams
- Drainage concerns
- Residential amenity and open space concerns
- Utilities concerns with regard to access, capacity etc.
- Concerns with regard to impact on historical buildings and streetscape<sup>131</sup>

## 6.2 New homes above purpose-built flats: PDR from 24 June 2020

The [Town and Country Planning \(Permitted Development and Miscellaneous Amendments\) \(England\) \(Coronavirus\) Regulations 2020](#) are now in force.<sup>132</sup> The territorial extent of these Regulations is England and Wales but their territorial application is England. More detail is in the [Explanatory Memorandum to the Regulations](#).

One of the PDRs they cover relates to upward extensions. The new PDR in these Regulations is confined only to creating new homes, and then only on top of purpose-built, detached blocks of flats, up to two additional storeys.

## 6.3 New homes above certain other buildings: more PDRs from 31 August 2020

The [Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) \(No. 2\) Order 2020](#) came into effect on 31 August 2020.<sup>133</sup>

It expanded the PDR for upward extensions (previously only available for the creation of new homes on top of purpose-built blocks of flats and discussed above) to allow for the extension of existing homes and the creation of new homes above certain other types of building. The right applies to buildings built since 1 July 1948, but not in Conservation Areas, National Parks and the Broads, areas of outstanding natural beauty, or sites of special scientific interest. There are various provisions

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<sup>131</sup> RTPI, [RTPI response to MHCLG consultation on 'Planning reform: supporting the high street and increasing the delivery of new homes'](#), January 2019. For more comment from the RTPI, see [RTPI: More dead frontages would kill off high streets](#) (6 March 2019), [RTPI signs open letter on permitted development rights](#) (28 January 2019) and [RTPI: development rights for high street and height extensions should not be pursued](#) (15 January 2019)

<sup>132</sup> SI 2020/632, amending the [Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#) (SI 2015/596)

<sup>133</sup> SI 2020/755, amending the [Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#) (SI 2015/596)

about height, overlooking and so on and all these rights are subject to prior approval.

The territorial extent of this Order is England and Wales but its territorial application is England.

More detail is in the [Explanatory Memorandum to the Order](#).

Generally speaking, the fee for prior approval (as shown on the [Planning Portal's fee calculator](#)) is £96. The [July 2020 newsletter from MHCLG's chief planner](#) recorded that the fees for PDRs for upward extensions and demolition and rebuilding would be higher:

Fees for the construction of new homes

We are currently amending the fees regulations to provide for a prior approval fee for homes constructed under the rights to build upwards to create new homes, and to the right for demolition and rebuild. The prior approval fee is set at £334 per new dwelling up to 50 units, and a fixed fee of £16,525 plus £100 for each dwelling in excess of 50. These amendments are subject to Parliamentary approval.<sup>134</sup>

An [article in Planning magazine](#) reported views of planning professionals on likely take-up and how the PDR might work in practice.<sup>135</sup>

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<sup>134</sup> MHCLG, [Planning update newsletter](#), July 2020. For comment on the fees, see "[Housing ministry announces higher prior approval fees for upwards extensions and demolition PD rights](#)", *Planning*, 29 July 2020.

<sup>135</sup> "[What the new permitted development right allowing homes to be extended upwards means for councils and applicants](#)", *Planning*, 30 July 2020

## 7. In detail: demolition of commercial buildings to provide new housing

Another of the changes outlined in the October 2018 consultation on supporting the high street by (amongst other things) increasing PDRs was to explore permitting the demolition of commercial buildings to provide new housing.

Here, the RTPI said it “strongly opposed” the proposal:

45. No – we strongly oppose this proposal. Permitted development should be for simple / minor changes, not new developments of this scale. LPAs have a requirement in the NPPF to positively plan for all uses, including commercial. PD rights allow the unplanned loss of such uses which reduces availability and affordability of such space for business use, local jobs and economic growth. "Replacement build as residential" misses opportunities for replacement for mixed uses which can be very important for place-making, general good design and local economy.

46. Demolition and rebuild should be subject to the full and proper scrutiny of a planning application and democratic decision making (usually through Planning Committees) – PD would undermine the confidence in LPAs and in the planning system more generally and cause confusion over what system applies.<sup>136</sup>

### 7.1 Demolition of vacant, redundant buildings and rebuilding as residential: new PDR from 31 August 2020

The [Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) \(No. 3\) Order 2020](#) came into effect on 31 August 2020.<sup>137</sup> This dealt with PDRs for demolition and rebuilding as residential, as proposed in the 2018 consultation [Planning reform: Supporting the high street and increasing the delivery of new homes](#).<sup>138</sup> That consultation had promised further consultation on the detail, but the [Explanatory Memorandum to this Order](#) said that would not now happen, in the interests of speed and stimulating regeneration and delivering more homes more easily, as part of the Government's response to the Covid-19 pandemic.<sup>139</sup>

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<sup>136</sup> RTPI, [RTPI response to MHCLG consultation on 'Planning reform: supporting the high street and increasing the delivery of new homes'](#), January 2019: page 11

<sup>137</sup> SI 2020/756

<sup>138</sup> MHCLG, [Planning Reform: Supporting the high street and increasing the delivery of new homes](#), October 2018

<sup>139</sup> [Explanatory Memorandum to the Town And Country Planning \(General Permitted Development\) \(England\) \(Amendment\) \(No 3\) Order 2020 \(SI 2020/756\)](#): paragraph 7.3

[The 2020 Order](#) added a new class ZA to the 2015 Order, dealing with demolition of buildings and construction of new dwellinghouses in their place.<sup>140</sup>

To fall within the scope of this new PDR, the building to be demolished must have been built before 1 January 1990, be vacant, redundant and free-standing and have fallen within the B1(a) offices, B1(b) research and development, B1(c) industrial processes (light industrial), and free-standing purpose-built residential blocks of flats (C3) use classes on 12 March 2020.

The PDR is subject to the prior approval process and the buildings must have been vacant for at least six months prior to the date of the application for prior approval. There are limits on the scale of the development, as the [Explanatory Memorandum to the Order](#) explains:

7.9 Recognising the streamlined planning process, limits are placed on the scale of development permitted. The right allows for redevelopment of a single new building within the footprint of buildings with a footprint of up to 1,000 sq m, and with a maximum height of 18 metres. The demolition or the replacement build of buildings with a footprint greater than 1,000 sq m is not permitted. The right does not apply to part of a building, nor does it allow for the demolition of more than one building within the curtilage and the incorporation of any additional footprint.

The territorial extent of this Order is England and Wales but its territorial application is England.

## 7.2 Concerns about archaeology

Concerns have been expressed about the potential impact of recent changes to planning policy for archaeology and protection of the historic environment. The PDR for demolition mentions heritage and archaeology and makes provision for heritage and archaeology statements.

The Chartered Institute for Archaeologists (CIfA) and Council for British Archaeology (CBA) issued a [statement on 3 July 2020](#), in which they expressed concern about the Prime Minister's build, build, build announcement and its implications (as they saw them) for archaeology:

It is vital that Government does not either falsely accuse nor accidentally sweep up archaeological safeguards into their agenda to relax or bypass planning regulations. There remains very little evidence that either archaeological or ecological regulation is ineffective. It is worth noting that the 2018 Letwin Review found no fault with these regulations, instead finding that the fundamental driver of 'build out rates' once planning permission is granted is the 'absorption rate' – the rate at which market sale homes can be sold without undermining the local market.<sup>141</sup>

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<sup>140</sup> [Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#) (SI 2015/596)

<sup>141</sup> CIfA and CBA, [CIfA & CBA response to Boris Johnson's 'Build, build, build' speech](#), 3 July 2020. For the Prime Minister's speech, see PM's Office and 10 Downing Street, [PM Economy Speech: 30 June 2020](#) and [Press release: PM: Build, build, build](#), both 30 June 2020.



### **Planning policy for the historic environment**

The Commons Library briefing [What next for planning in England? The National Planning Policy Framework](#) examines some of the main policy changes introduced through the new NPPF.<sup>142</sup>

Under the heading of conserving and enhancing the historic environment, it instructs LPAs to maintain or create a historic environment record and, in determining applications, to require developers to submit an appropriate desk-based assessment (and, where necessary, field evaluation) for any site which has or may have heritage assets with archaeological interest.<sup>143</sup> It also defines “archaeological interest”:

Archaeological interest: There will be archaeological interest in a heritage asset if it holds, or potentially holds, evidence of past human activity worthy of expert investigation at some point.<sup>144</sup>

More detailed guidance comes from the [PPG on historic environment](#). It says (amongst many other things) that conservation requires a flexible and thoughtful approach to as yet undiscovered, undesignated remains of archaeological interest and outlines when an archaeological statement will be needed.<sup>145</sup> In discussing non-designated heritage assets of archaeological interest, the PPG calls for a “proportionate” response.<sup>146</sup>

### **The new PDR from 31 August 2020: heritage and archaeology**

One of the conditions set out in Article 4 of the 2020 Order is that

Where any development under Class ZA is proposed, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for prior approval of the authority as to (...) the impact of the development on heritage and archaeology.<sup>147</sup>

The [Explanatory Memorandum to the 2020 Order](#) reiterates that the PDR provides for (amongst other things) local consideration of the impacts of the development on heritage and archaeology and explains how the heritage and archaeology statement will be used.

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<sup>142</sup> CBP 8260, 10 June 2019

<sup>143</sup> MHCLG, [National Planning Policy Framework](#), CP 48, February 2019: paragraph 189

<sup>144</sup> As above: page 65

<sup>145</sup> MHCLG, [Guidance: Historic environment](#), 10 April 2014, updated 23 July 2019: see in particular paragraphs 002 and 021

<sup>146</sup> As above: paragraph 041

<sup>147</sup> ZA.2(2)(j)

## 8. Change of use in town centres

One of the concerns sometimes expressed about the prospects for high street retail is that the proliferation of certain types of shop can change the high street's character. More recently, some commentators have also questioned whether and how town centres may need to adapt, in response not only to established changes in shopping habits and the growing significance of online shopping but also more recent changes in how people live, work and shop brought about by the Covid-19 pandemic.

### 8.1 Change of use of shops

It has often been argued that change of use of shops within the same use class can change the character of a retail area, if it leads to a proliferation of one type of shop. Likewise, there have been calls for greater planning control over betting shops. Changes made in April 2015 (mentioned later in section 10) moved betting shops into the "sui generis" category. This means that a planning application needs to be submitted for any change of use. For more information, see the Commons Library briefing [Betting shops: licensing and planning issues](#).<sup>148</sup>

Some of the concerns about the future of high streets and town centres – and the part that planning can play in supporting them – will be discussed in a forthcoming Commons Library briefing.

### 8.2 Ensuring the vitality of town centres

Chapter 7 of the NPPF deals with [ensuring the vitality of town centres](#). It sets out (amongst other things) how planning policies and decisions should enable town centres to grow and diversify, speaking of promoting their "long-term vitality and viability."<sup>149</sup>

The [PPG on town centres and retail](#) offers guidance on how LPAs can bring together stakeholders to support sustainable economic and employment growth.<sup>150</sup>

### 8.3 Impact of new use classes from 1 September 2020

Section 3.6 above examined the new use classes introduced from 1 September 2020.

The Government has said that the new use classes will support the revival of town centres, but some commentators have argued that there may be negative consequences.

In an [announcement to accompany the new rules on 21 July 2020](#), Robert Jenrick spoke of "cutting out unnecessary bureaucracy" and renewing town centres.<sup>151</sup>

<sup>148</sup> SN 6919, 17 December 2020

<sup>149</sup> MHCLG, [National Planning Policy Framework](#), CP 48, February 2019: paragraph 85

<sup>150</sup> MHCLG, [Guidance: Town centres and retail](#), 3 March 2014, updated 22 July 2019

<sup>151</sup> MHCLG, [News story: New laws to extend homes upwards and revitalise town centres](#), 21 July 2020

Responding to this announcement, the Royal Town Planning Institute (RTPI), Royal Institute of British Architects, Royal Institution of Chartered Surveyors and Chartered Institute of Building voiced concerns about increasing use of PDRs and their consequences for quality of life:

We have seen further announcements related to PDRs, including:

- Extra storeys on residential building without the need for planning permission
- Demolition of empty buildings if replaced with residential, without the need for planning permission
- Further reforms to use class orders, to expand the commercial presences that can be repurposed to residential without planning permission

We are concerned around how these PDRs will be implemented, and the potential impact on the quality of life of future residents and local communities. All PDRs must require minimum space, building and design standards, and should be implemented in such a way as to ensure they contribute towards affordable housing and community infrastructure. Having these safeguards does not mean delays in construction, it means that the homes built in the early 2020s will not become the social disasters of the 2030s.<sup>152</sup>

[Planning magazine reported mixed views](#) on the potential impact for town centres of the use class changes:

The changes have been warmly welcomed by many in the private sector. Ian Fletcher, director of policy at the British Property Federation, said they struck a balance. "I think they are radical, without being reckless," he said. "They provide welcome flexibility between commercial uses, but don't stray into allowing commercial to residential, while there is a list of exceptions which remain outside the new commercial, business and service use."

(...)

But Mike Kiely, chairman of the Planning Officers Society, said authorities will be hugely concerned at the loss of control over their town centres. "The consequences will be phenomenal. Just leaving the market to do what it wants is very unlikely to deliver the combination of uses that attract people to town centres," he said. "At the moment, councils cluster uses to provide vitality. This will decimate town centres as you end up with lots of 'dead' uses not serving the public. It's madness."<sup>153</sup>

Section 2.9 earlier discussed the responses to the Government's December 2020 consultation on amended PDRs, including a proposed PDR to convert commercial, business and service property to residential use. Some of the responses raised concerns about the potential impact on high streets and town centres and whether the proposed changes would help or hinder their future prospects.

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<sup>152</sup> Royal Town Planning Institute, Royal Institute of British Architects, Royal Institution of Chartered Surveyors and Chartered Institute of Building, [Letter to Robert Jenrick](#), 21 July 2020

<sup>153</sup> "[Why some fear the government's use class overhaul may be a threat to town centres](#)", Planning, 30 July 2020

## 9. Other changes to PDRs and change of use in 2020

There have been several waves of changes to rules on change of use and PDRs during the Covid-19 pandemic.

The Commons Library briefing [Planning for the Future: planning policy changes in England in 2020 and future reforms](#) discusses the changes to planning policy in England made during Covid-19.<sup>154</sup> The Lords Library's [In focus: Planning regulations: New permitted development rights](#) also offers background information.<sup>155</sup>

### 9.1 Pubs operating as takeaways: change of use from 24 March 2020

Rules around change of use were relaxed in March 2020 to enable (for example) pubs in England to operate as take-aways.

This change to PDRs was introduced in [The Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) Order 2020](#) and applies between 24 March 2020 and 23 March 2021.<sup>156</sup>

This new temporary PDR is excluded from the scope of Article 4 Directions (discussed in section 1.3); Article 3 of the 2020 Order excludes the new PDR from the provisions in article 4(1) of the General Permitted Development Order, so preventing a local authority and the Secretary of State from directing that development permitted by this Order is not to apply in relation to a specified area. The [Explanatory Memorandum to this Order](#) provides more information.<sup>157</sup>

The changes are mentioned in the [Commons Library briefing on coronavirus: support for businesses](#).<sup>158</sup>

### 9.2 Temporary use of land and markets: new PDRs from 24 June 2020

The [Town and Country Planning \(Permitted Development and Miscellaneous Amendments\) \(England\) \(Coronavirus\) Regulations 2020](#) are now in force.<sup>159</sup> They cover PDRs for upward extensions (discussed in section 6 above) and two other PDRs:

- **Temporary use of land:** Existing PDRs allow (with certain conditions) temporary use of land for up to 28 days without planning permission. The new Regulations created a second,

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<sup>154</sup> CBP 8981, 12 January 2021

<sup>155</sup> 4 September 2020

<sup>156</sup> [The Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) Order 2020](#), SI 2020/330

<sup>157</sup> [Explanatory Memorandum to the Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) Order 2020 \(SI 2020/330\)](#)

<sup>158</sup> CBP 8847, 15 January 2021

<sup>159</sup> SI 2020/632, amending the [Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#) (SI 2015/596)

temporary period of 28 days, available only until 31 December 2020.

- **Markets:** These Regulations also introduce a PDR to allow a local authority to hold a market for an unlimited number of days without the requirement to submit an application for planning permission, from 25 June 2020 to 23 March 2021.

The territorial extent of these Regulations is England and Wales but their territorial application is England. More detail is in the [Explanatory Memorandum to the Regulations](#).

More recently, new regulations made in November 2020 - the [Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) Regulations 2020](#) - have made further provision for the temporary use of land in 2021.<sup>160</sup>

The new provision came into force on 1 January 2021 and expires on 31 December 2021. The [Explanatory Memorandum to the November 2020 Regulations](#) explains:

7.3 (...) An extension of these temporary rights will enable businesses to operate and vital facilities to continue to respond to coronavirus and, if necessary, provide services while an application for planning permission for longer term use is considered by the local planning authority in line with local and national policy.

(...)

7.11 1 Regulation 4 amends Class BA of Part 4 of Schedule 2 of the General Permitted Development Order to allow for the additional temporary use of land from 1 January 2021 to 31 December 2021. This amended right allows land to be used temporarily for no more than 28 days within that period, of which no more than 14 days can be for holding a market or for motor car and motorcycle racing. The right also allows the erection of moveable structures such as stalls or a marquee on that land. It is available in addition to the existing permitted development right for the temporary use of land in Class B of Part 4 of Schedule 2 of the General Permitted Development Order. The right is time-limited and will cease to have effect from 1 January 2022. If the developer is also a local authority, then in addition to using their allowance under Class B and Class BA of Part 4 to use land for any purpose, they can also use Class BA of Part 12 of Schedule 2 to hold a market for any number of days until 23 March 2022, as set out in paragraph 7.22 below.

7.12 For the avoidance of doubt, this amendment will come into force on 1 January 2021. The existing right allowing the temporary use of land from 1 July 2020 to 31 December 2020 will continue to have effect until that date.<sup>161</sup>

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<sup>160</sup> SI 2020/1243

<sup>161</sup> [The Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) Regulations 2020 \(SI 2020/1243\): Explanatory Memorandum](#)

## 10. Earlier changes to PDRs

### 10.1 May 2013: Home and business extensions

In a [Written Statement in September 2012](#), the coalition Government announced that it would extend PDRs for three years in order to make it easier for homeowners and businesses to extend their properties.<sup>162</sup> That was [followed in November 2012 by a consultation](#).<sup>163</sup>

The new PDRs came into force from 30 May 2013, through the [Town and Country Planning \(General Permitted Development\) \(Amendment\) \(England\) Order 2013](#).<sup>164</sup> The new rules applied initially for three years.

In the July 2014 [technical consultation on planning](#), the Government proposed putting some of its temporary PDRs on a permanent basis, including the temporary increase in size limits allowed for single storey rear extensions on dwelling houses.

In the [Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#), which came into force in April 2015, the temporary size limit PDR for domestic extensions was extended for a further three years, until May 2019.<sup>165</sup> In addition to this, the previously time-limited PDR for extensions to shops, offices, industrial and warehouse buildings was made permanent.

In April 2017 the then Government updated the [permitted development rights for householders: technical guidance](#), which explains the rules on householder permitted development, protection for neighbours and the wider environment.

One of the proposals in the [October 2018 consultation on supporting the high street and increasing the delivery of new homes](#) was to make permanent the time-limited PDR relating to larger single-storey rear extensions to houses.<sup>166</sup>

In a [Written Statement in March 2019](#), the then Housing Secretary, James Brokenshire, confirmed that the Government would reform a number of PDRs (as proposed in the October 2018 consultation) although the time-limited right for change of use from storage to residential would not be extended beyond 10 June 2019.<sup>167</sup> The PDR for larger single storey rear extensions would (he said) be made permanent, with a “proportionate” fee.<sup>168</sup> The [Government response](#)

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<sup>162</sup> [HC Deb 6 Sep 2012 cc29WS](#)

<sup>163</sup> DCLG, [Extending permitted development rights for homeowners and businesses](#), 12 November 2012: pages 2-3

<sup>164</sup> SI 2013/1101. See DCLG, [New measures coming into force ensure the very best use is made of empty and underused buildings](#), 9 May 2013

<sup>165</sup> SI 2015/596

<sup>166</sup> MHCLG, [Planning Reform: Supporting the high street and increasing the delivery of new homes](#), October 2018: pages 9-10

<sup>167</sup> [HC Deb 13 March 2019 c20WS](#)

<sup>168</sup> As above

[to the October 2018 consultation](#) remarked that its proposal here had attracted considerable support.<sup>169</sup>

The [Town and Country Planning \(Permitted Development, Advertisement and Compensation Amendments\) \(England\) Regulations 2019](#) came into force on 25 May 2019.<sup>170</sup>

## 10.2 August 2013: Telecommunications masts and mobile connectivity

In May 2013, a Government consultation, [Mobile connectivity in England: technical consultation](#), proposed to increase PDRs for the heights of antennae on existing buildings and structures and an increase in height for existing masts.<sup>171</sup>

These changes came into force in August 2013 through the (now superseded) [Town and Country Planning \(General Permitted Development\) \(Amendment\) \(No. 2\) \(England\) Order 2013](#).<sup>172</sup>

## 10.3 April 2015: Reform of the General Permitted Development Order and new PDRs

The coalition Government announced a review of the 1995 General Permitted Development Order and a series of new change of use PDRs in:

- the [Budget 2014](#)<sup>173</sup>
- [Supporting High Streets and Town Centres Background Note](#), 6 December 2013
- a [Written Ministerial Statement on 30 April 2014](#) and
- DCLG, [Technical consultation on planning](#), July 2014

In the [Budget 2014](#), the then Government announced a review of the 1995 General Permitted Development Order.

The Government's July 2014 [technical consultation on planning](#) proposed a number of new PDRs. The coalition Government did not respond to this part of the consultation on planning before the 2015 general election, but confirmed in a [written ministerial statement](#) that certain changes would be made.<sup>174</sup> Changes were therefore made through publication of statutory instruments:

- [The Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#) (the 2015 Order)<sup>175</sup>

A number of new PDRs were introduced in April 2015.

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<sup>169</sup> MHCLG, [Government response to consultation on Planning Reform: Supporting the high street and increasing the delivery of new homes: A summary of responses to the consultation and the government's response](#), May 2019: page 16

<sup>170</sup> SI 2019/907. Further background information is provided in the Regulations' [Explanatory Memorandum](#).

<sup>171</sup> DCLG, [Mobile connectivity in England: technical consultation](#), May 2013

<sup>172</sup> SI 2013/1868

<sup>173</sup> HM Treasury, [Budget 2014](#), 19 March 2014: paragraph 1.147

<sup>174</sup> [HC Deb 25 March 2015 c131WS](#)

<sup>175</sup> SI 2015/596

- [The Town and Country Planning \(Compensation\) \(England\) Regulations 2015](#)<sup>176</sup> and
- [The Town and Country Planning \(Use Classes\) \(Amendment\) \(England\) Order 2015](#)<sup>177</sup>

The first of these statutory instruments consolidated and revoked the 1995 General Permitted Development Order and made a number of policy changes. Changes made by these statutory instruments came into force in April 2015.

The new PDRs encompassed (with various conditions and thresholds):

- A new PDR, for a three year period, allowing storage or distribution buildings (B8) to change use to residential (C3).
- A new PDR allowing amusement arcades/centres and casinos, which are sui generis uses and so do not sit in any specific use class, to change use to residential (C3) use
- A new PDR for the change of use from shops (A1) to financial and professional services (A2)
- Removing betting offices and pay day loan shops from the A2 use class and making them sui generis
- A new PDR for the change of use from shops (A1), financial and professional services (A2), betting offices, pay day loan shops and casinos to restaurants and cafés (A3)
- A new PDR for the change of use from shops (A1) and financial and professional services (A2) to assembly and leisure uses (D2).<sup>178</sup>

The [Explanatory Memorandum](#) to these regulations set out the scope of the new PDRs.<sup>179</sup>

## 10.4 November 2016: Increased PDRs for telecommunications masts

In July 2015 the Government [published a review](#) of how the planning system in England could support the delivery of mobile connectivity. A [Written Statement](#) in March 2016 confirmed the changes that would be made as a result of the review, with increased PDRs to allow taller ground-based masts on sites already used for telecommunications infrastructure.<sup>180</sup>

These various changes were brought into force by the [Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) \(No 2\) Order 2016](#) in November 2016.<sup>181</sup>

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<sup>176</sup> SI 2015/598

<sup>177</sup> SI 2015/597

<sup>178</sup> [The Town and Country Planning \(Use Classes\) \(Amendment\) \(England\) Order 2015 \(SI 2015/597\): Explanatory Memorandum](#)

<sup>179</sup> As above

<sup>180</sup> [HCWS631, 17 March 2016](#)

<sup>181</sup> SI 2016/1040



## 10.5 April 2016: Shale gas and oil monitoring and investigation

### PDR for preparatory work

From 6 April 2016 (and following a [March 2015 consultation](#)), the [Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) Order 2016](#) allows during a period not exceeding 28 consecutive days the drilling of boreholes for the purposes of (a) carrying out groundwater monitoring; (b) seismic monitoring or (c) locating and appraising the condition of mines, in each case which is preparatory to potential petroleum exploration.<sup>182</sup> This right is subject to a number of exceptions (for example where drilling would be carried out within a National Park or protected groundwater source area) and a number of conditions (including no operations between 6pm-7am, and notification to the Environment Agency).

This work can be carried out to establish baseline information on the groundwater environment without the need for planning permission, although other regulatory consents, such as a petroleum exploration and development licence (PEDL), would still be required.

### Consultation on PDR for non-hydraulic shale gas exploration

In 2018, there was a [consultation on permitted development for shale gas exploration](#).

The consultation document invited views on creating a PDR for non-hydraulic shale gas exploration development in England.<sup>183</sup> The consultation document stated it would only apply to non-hydraulic fracturing operations to take core samples for testing purposes. It would not allow injection of any fluids for the purposes of hydraulic fracturing. The consultation proposed a definition for non-hydraulic fracturing shale gas exploration and also set out the proposed limitations and exclusions from permitted development on environmental and other grounds.<sup>184</sup>

### Parliamentary scrutiny of planning for fracking (2018)

The Housing, Communities and Local Government select committee's [report on planning guidance on fracking](#) in July 2018 recommended (amongst other things) that fracking planning applications should not be brought under the Nationally Significant Infrastructure Projects (NSIP) regime nor acquire PDRs. The Committee also concluded that it would be "inappropriate" for fracking to be regulated by one single body and proposed the Government's Shale Environmental Regulator should be

The Commons Library [briefing on shale gas and fracking](#) provides an overview (CBP 06073, 31 March 2020: see section 3.3)

<sup>182</sup> MHCLG, [Amendment to permitted development rights for drilling boreholes for groundwater monitoring for petroleum exploration: technical consultation](#), March 2015

<sup>183</sup> MHCLG, [Permitted development for shale gas exploration: Consultation](#), July 2018: page 7

<sup>184</sup> As above: paragraphs 23-5

renamed and repurposed as the Shale Information and Coordination Service.<sup>185</sup> As yet, no Government response has been published.

On 12 September 2018, a [Westminster Hall debate](#) led by Lee Rowley considered planning permission for shale gas exploration. Concerns were raised in relation to the Government's proposals for PDRs and extending the NSIP regime. The then Minister for Energy and Clean Growth, Claire Perry) responded to a number of the concerns:

I will shortly appoint a shale gas commissioner, who will have deep and extensive constituency knowledge of the issue and will be out there, helping local residents to understand some of the challenges that exist. To put the myth-buster in place again, we are not overriding local decision making; there are plenty of opportunities for decision makers to express their views in the pre-consultation stage, as is done for other complicated and difficult energy policies.<sup>186</sup>

On 31 October 2018, a further Westminster Hall debate on shale gas development was led by Mark Menzies. It focused on local involvement in shale gas development and the Government proposals on planning changes: Mark Menzies called for greater local involvement in "major decisions such as the approval of shale gas sites".<sup>187</sup> The then Minister for Housing, Kit Malthouse, replied, emphasising that the Government had not yet made a decision as a result of the planning consultations, and acknowledging the importance of community engagement.<sup>188</sup>

### Moratorium on fracking

In November 2019, [the UK Government announced](#) that it would take a presumption against issuing any further Hydraulic Fracturing Consents in England, effectively creating a moratorium.<sup>189</sup> A [Written Ministerial Statement](#) then confirmed that an effective moratorium would be maintained until compelling new evidence was provided to address the "concerns around the prediction and management of induced seismicity".<sup>190</sup>

## 10.6 Prior approval for building operation permitted development

Section 152 of the [Housing and Planning Act 2016](#) introduced a prior approval process for building operation PDRs (as opposed to change of use PDR) and other development orders. The idea was to delegate this matter to LPAs so that "local conditions and sensitivities can be taken into account".<sup>191</sup>

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<sup>185</sup> Housing, Communities and Local Government Select Committee, [Planning guidance on fracking](#), HC 767 2017-19, 5 July 2018

<sup>186</sup> [HC Deb 12 September 2018 Col 328WH](#)

<sup>187</sup> [HC Deb 31 October 2018 Col 397WH](#)

<sup>188</sup> [HC Deb 31 October 2018 Col 409WH](#)

<sup>189</sup> BEIS, [Government ends support for fracking](#), 2 November 2019

<sup>190</sup> [Energy Policy update: HCWS68, 4 November 2019](#)

<sup>191</sup> [Housing and Planning Bill Explanatory Notes, Bill 75 EN 2015-16: page 44](#)

# 11. Earlier extensions to change of use

## May 2013: flexible business uses

In July 2012, the coalition Government [published a consultation](#) in which it proposed to create new PDRs, to assist change of use for a range of new business uses.<sup>192</sup> A [Written Statement in January 2013](#) set out the changes that would be made, under headings of getting redundant agricultural buildings back into use, flexibility for business uses and getting empty town centre buildings back into use.<sup>193</sup>

These changes were made through the (now revoked) [Town and Country Planning \(General Permitted Development\) \(Amendment\) \(England\) Order 2013](#), which came into force in May 2013.<sup>194</sup> The PDRs were transferred across to the [Town and Country Planning \(General Permitted Development\) Order 2015](#).<sup>195</sup>

The coalition Government published a [summary of responses](#) to the July 2012 consultation in May 2013. In it, the Government confirmed that it would not proceed with the proposal to allow use class C1 hotels to have PDRs to convert to class C3 houses, observing that “in comparison with the rest of the proposals in this consultation, there was a general lack of support for this idea” and it would seek change of use of hotels to houses by other means.<sup>196</sup>

## April 2014: new residential uses, shops, schools and childcare facilities

In August 2013, the coalition Government [published another consultation](#), proposing new PDRs in five areas:

- To create a permitted development right to assist change of use and the associated physical works from an existing building used as a small shop or provider of professional/financial services (A1 and A2 uses) to residential use (C3)
- To create a permitted development right to enable retail use (A1) to change to a bank or a building society
- To create a permitted development right to assist change of use and the associated physical works from existing buildings used for agricultural purposes to change to residential use (C3)
- To extend the permitted development rights for premises used as offices (B1), hotels (C1), residential (C2 and C2A), non-residential institutions (D1), and leisure and assembly

In April 2014, certain agricultural buildings gained PDRs to change to residential use.

<sup>192</sup> DCLG, [New opportunities for sustainable development and growth through the reuse of existing buildings](#), July 2012

<sup>193</sup> [HC Deb 24 January 2013 c16WS](#)

<sup>194</sup> SI 2013/1101. DCLG, [New measures coming into force ensure the very best use is made of empty and underused buildings](#), 9 May 2013

<sup>195</sup> SI 2015/596

<sup>196</sup> DCLG, [New opportunities for sustainable development and growth through the reuse of existing buildings: Summary of responses](#), 9 May 2013

(D2) to change use to a state funded school, to also be able to change to nurseries providing childcare and

- To create a permitted development right to allow a building used for agricultural purposes of up to 500m<sup>2</sup> to be used as a new state funded school or nursery providing childcare.<sup>197</sup>

The Government [published its response](#) to the consultation in March 2014. It confirmed that it would go ahead with the majority of these new change of use PDRs as proposed, although the change to allow agricultural buildings to convert to residential use would not apply in areas of National Park land and other protected areas.

These changes were implemented through the [Town and Country Planning \(General Permitted Development\) \(Amendment and Consequential Provisions\) \(England\) Order 2014](#), in 6 April 2014.<sup>198</sup>

### April 2015: Betting and payday loan shops

The coalition Government's [technical consultation](#) in July 2014 had originally proposed to alter the A1 (shops) and A2 (financial institutions) use subclasses, to create a larger, renamed, A1 class which would incorporate a lot of the A2 uses. This was in part aimed at solving the issue of betting shops and payday loan shops being able to open without requiring planning permission. Instead of making this change, the 2015 Order moved betting and payday loan shops out of the A2 class and into the sui generis class, meaning that planning permission would then be required before a building could change to either of these uses. The Explanatory Memorandum to the 2015 Order explained why this had been done.<sup>199</sup>

### April 2016: launderette to housing change of use

From 6 April 2016 the 2016 Order also granted a new PDR for launderettes to change to housing, subject to a prior approval process that allowed local authorities to assess the impact of changes on the "adequate provision" of such services.

### April 2017: state-funded schools

In the February 2016 [technical consultation on implementation of planning changes](#), the then Government proposed to:

- Extend from one to two academic years the existing temporary right to use any property within the use classes for a state-funded school;
- Increase from 100 m<sup>2</sup> to 250 m<sup>2</sup> the threshold for extensions to existing school buildings (but not exceeding 25% of the gross floorspace of the original building); and,
- Allow temporary buildings to be erected for up to three years on cleared sites where, had a building not been demolished, the existing permitted development right for

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<sup>197</sup> DCLG, [Greater flexibilities for change of use](#), 7 August 2013

<sup>198</sup> SI 2014/564

<sup>199</sup> [The Town and Country Planning \(Use Classes\) \(Amendment\) \(England\) Order 2015 \(SI 2015/597\): Explanatory Memorandum](#)

permanent change of use of a building to a state funded school would have applied.<sup>200</sup>

These changes came into force through the [Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) Order 2017](#), from 6 April 2017.<sup>201</sup>

### May 2017: public houses

Under the Town and Country Planning (Use Classes) Order 1987, pubs generally fell into use class A4, drinking establishments.<sup>202</sup> It used to be the case that planning permission was not required for a change of use from class A4 (pub) to certain other uses, for example supermarkets, provided that the pub was not listed as an asset of community value.

Section 15 of the [Neighbourhood Planning Act 2017](#) required the Secretary of State “as soon as reasonably practicable after the coming into force of this section” to remove the existing PDRs which allowed drinking establishments, including pubs, to change use or to be demolished.

The change came into force through the [Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) \(No. 2\) Order 2017](#), from 23 May 2017.<sup>203</sup>

### October 2017: light industrial to residential

The 2016 Order created a new three-year temporary PDR for the change of use from light industrial to housing, up to a maximum floorspace of 500 square metres, which came into force on 1 October 2017, to give time for councils to issue an Article 4 direction removing the right where appropriate.<sup>204</sup>

Further regulations, the [Town and Country Planning \(Compensation\) \(England\) \(Amendment\) Regulations 2016](#),<sup>205</sup> amended the Town and Country Planning (Compensation) (England) Regulations 2015,<sup>206</sup> to limit or exclude, in specified circumstances, the liability of LPAs to pay compensation on withdrawal of the PDR for the change of use of light industrial premises to dwellinghouses.

### April 2018: Further agricultural to residential change of use

The [August 2015 rural productivity plan](#) announced a review of the planning and regulatory constraints facing rural businesses, as well as a review of the then-current thresholds for PDR for change of use from

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<sup>200</sup> DCLG, [Technical consultation on implementation of planning changes](#), February 2016

<sup>201</sup> HM Government, [Implementation of planning changes: technical consultation](#), February 2016: page 61

<sup>202</sup> SI 1987/764

<sup>203</sup> SI 2017/619. Earlier, the coalition Government had removed PDRs (for change of use and demolition) for pubs which were listed as an asset of community through schedule 2 of the 2015 Order (SI 2015/596).

<sup>204</sup> SI 2016/322

<sup>205</sup> SI 2016/331

<sup>206</sup> SI 2015/598

agricultural to residential.<sup>207</sup> On 11 February 2016 the Government published a [rural planning review: call for evidence](#) which asked for views on these areas.<sup>208</sup>

The [Government's response](#) to this part of the consultation was published in February 2017.<sup>209</sup> In it, the Government also began a consultation on an extended agricultural to residential use PDR.<sup>210</sup>

The [Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) Order 2018](#) introduced this extended PDR with effect from 6 April 2018.<sup>211</sup>

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<sup>207</sup> Defra, [Towards a one nation economy: A 10-point plan for boosting productivity in rural areas](#), August 2015. Further information about these existing rights is available from the [Planning Permission for Farms](#) page of the Gov.uk website.

<sup>208</sup> DCLG and Defra, [Rural planning review: call for evidence](#), 11 February 2016

<sup>209</sup> DCLG, [Summary of responses to the technical consultation on implementation of planning changes, consultation on upward extensions and Rural Planning Review Call for Evidence](#), 7 February 2017: pages 38-41

<sup>210</sup> As above: page 41

<sup>211</sup> SI 2018/343

## 12. Further reading

- RTPI, [‘Bottom-up’ approach needed to post-Covid high street planning, says RTPI](#), 18 December 2020
- [“Six things you need to know about the latest proposed changes to permitted development rights”](#), Planning, 8 December 2020
- [“Government announces plans to ‘simplify and consolidate’ permitted development rights”](#), Planning, 4 December 2020
- ["Lack of space requirements 'gave permitted development rights a bad name', Jenrick admits"](#), Planning, 6 October 2020
- ["New permitted development rights clash with design body's focus on beauty and quality, says RIBA"](#), Planning, 23 September 2020
- ["Letters to the Editor: Greedy developers free to create slums of future"](#) (from President of RIBA), Times, 13 September 2020
- [“Greater permitted development rights ‘kneecap’ the planning system”](#), Planning, 4 August 2020

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