

Call for Views Response

How can permitted development rights respond to the housing emergency?

About the RTPI

The RTPI Champions the power of planning in creating sustainable, prosperous places and vibrant communities. We have over 27,000 members in the private, public, academic and voluntary sectors. Using our expertise and research we bring evidence and thought leadership to shape planning policies and thinking, putting the profession at the heart of society's big debates. We set the standards of planning education and professional behaviour that provide our members, wherever they work in the world, a unique ability to meet complex economic, social environmental and cultural challenges.

Introductory Remarks

We welcome this opportunity to respond to the Scottish Government's call for views on using Permitted Development Rights (PDRs) to support the delivery of new homes.

We acknowledge that PDRs are a legitimate mechanism through which certain development types can be carried out either without any reference to the local planning authority or through a more streamlined prior approval process. These are typically developments that have no planning implications or have implications that cover a narrow range of planning considerations.

Notwithstanding the above, it is our view that PDRs should never be seen as a catch-all solution to addressing either the housing emergency or an under-resourced planning system. The Scottish Government's blog rightly states that we must not promote a "development at any cost" approach to tackling the housing emergency. RTPI Scotland agrees that in the majority of instances it is correct that proposals for new homes should be the subject of planning applications. It is only through the full planning application process that we can ensure the appropriate level of professional planning scrutiny is applied to development proposals, having regard to relevant policy as well as the views of local communities and other stakeholders.

The following submission sets out:

- our concerns regarding the potential consequences that can arise from the reliance of PDRs to deliver housing;
- the effectiveness of PDRs to deliver quality housing; and
- the approach that should be taken if PDRs are expanded to encompass a wider range of housing developments

The Consequences of Permitted Development Rights

The RTPI has previously voiced concern about the use of PDRs to address the housing emergency. Many of these concerns were in relation to the PDR process in England. We submit, however, that these concerns are equally applicable in the Scottish context, including:

- **The Erosion of Professional Planning Judgement**

One argument in support of the expansion of PDRs is to remove the additional bureaucratic burden of the planning system. This implies that the planning system is somehow holding back the delivery of new homes and that bypassing this process will provide developers with greater certainty, thereby stimulating further development. We submit that this argument is short-sighted and fails to recognise the important role that planning plays in delivering new development in the right places. This was recognised by Ivan McKee MSP, Minister for Public Finance, in his [statement to the Scottish Parliament in November last year](#):

Planning is an essential building block for a successful economy. What we build and where we build it creates the right conditions for economic growth and prosperity. When planning is responsive and has appropriate resources and expertise, it can unlock economic potential and leverage in investment – in particular, in housing. Planning is a powerful tool for delivering development, including new homes, in a way that supports our commitments to net zero and nature and builds stronger communities.

Currently, PDRs in Scotland are conditioned through the GPDO using physical bounds – including maximum/minimum footprints, heights, areas, setbacks etc. These are generally unambiguous and not open to different interpretations that require professional judgement. Where further considerations are required that do necessitate a level of professional judgement (for example, the external appearance and design of a proposed structure), the GPDO states that the developer must first obtain prior approval from the relevant planning authority or confirmation that prior approval is not required.

The RTPI has previously raised concerns that the prior approval PDR process is increasingly being relied upon as a substitute for genuine planning applications. In [the RTPI's written evidence to the UK Parliament in April 2021](#), we expressed the view that the prior approval process “seems to go against the whole concept of permitted development rights, in which the law (by Statutory Instrument) sets physical dimensions which are absolute and not matters of judgement.” It is the view of RTPI Scotland that a further expansion of PDRs in Scotland to encompass additional housing schemes using the prior approval process will further exacerbate this issue.

In its blog, the Scottish Government states that it is seeking views as to how PDRs can be used in a way “that is consistent with policies in the National Planning Framework 4 – and its themes of supporting sustainable, liveable and productive places”. In our view, the principal way to ensure robust compliance with the policies of NPF4 is through the full planning application process which gives full discretion to qualified planners using their professional judgement to determine such applications having regard to the full range of material considerations that are currently not captured by the prior approvals process. Only in limited circumstances can PDRs act as an effective tool to deliver development in way that also delivers the outcomes of NPF4.

- **Resourcing Pressures**

[RTPI Scotland's latest resourcing update in December 2023](#) highlighted the pressures that local planning authorities are facing due to increased budget cuts, as well as skills and staffing shortages.

Although PDRs can reduce pressures on local planning authorities by removing certain application types from the planning system, it is the view of RTPI Scotland that PDRs must not be seen as a solution to the planning

resourcing crisis at the expense of adequate funding, staffing, and training solutions.

In addition, we note that PDR schemes which are required to obtain prior approval are not removed from the planning system entirely. The fees associated with these applications are significantly lower than full planning application fees and do not accurately reflect the amount of work involved in their assessment by local planning authorities. Rather than alleviating pressures on local planning authorities, we fear that the expansion of PDRs could further exacerbate these pressures.

- **No provision for S75s**

There is no S75 trigger through the PDR process. Consequently, local planning authorities do not have the ability to require PDR schemes to contribute to affordable housing or infrastructure provision. This is of limited concern having regard to existing PD rights in Scotland but has the potential to have significant negative consequences on affordable housing and infrastructure delivery if PDRs are expanded to include housing schemes.

- **High Street Impacts**

In the Scottish Government's [Planning and the Housing Emergency Delivery Plan](#), there is a suggestion that PDRs could be used to allow shop to residential conversions to stimulate an increase in town centre living. Whilst we appreciate the logic behind this statement, [the RTPI has previously expressed concerns](#) that this has the potential "to undermine the viability of high streets across the country by incentivising the conversion of shops to homes, leaving pockmarked high streets that further undermine footfall in remaining shops". Research undertaken by [the TCPA in 2021](#) found that "80.3% of shops and other commercial buildings could be lost to residential conversion".

If further deregulation through the expansion of PDRs is not carefully considered and implemented, it has the potential to fly in the face of the Town Centre First Principle of NPF4.

The Delivery of Quality Homes

PDRs as an effective mechanism to deliver increased quality housing has been the subject of much debate. Although the UK Government has previously claimed that PDRs have delivered homes in England that otherwise would not have been built, there does not appear to be concrete evidence to suggest that PDRs have played a significant role in the delivery of new quality homes in England.

A [Research Briefing about the use of PD in England](#) found that only 6% of new homes were created through change-of-use PDRs between 2015/16 and 2022/23.

[An earlier report on PDRs by the HCLG Committee](#) identified that although permitted developments have made a contribution to the supply of new homes "the precise number is difficult to calculate given the likelihood that some of these homes would have been built anyway". This view is supported by research undertaken by [RICS in 2018](#). Using the case study of Glasgow, this research demonstrated that despite not having the benefit of office to residential PD rights, the City still saw 77 applications for such conversions over a four-year period. Importantly, this research also highlighted that the quality of the schemes delivered in Glasgow were much higher than those that had come forward in England through PDRs.

The above highlights that the housing emergency must not be dealt with by looking only at the number of homes delivered through PDRs. Quality must also be a significant factor in our response to the crisis. Much evidence has been gathered

highlighting the poor quality of homes that have been created through PDRs in England compared to those that come through the mainstream planning system (see [2020 study by UCL and University of Liverpool](#), and also this [2024 TCPA report](#)).

Poor internal amenity outcomes (particularly in relation to size and access to natural daylight) led the UK Government to introduce minimum standards for office to residential conversions. However, even after these concerns are addressed, there remain inadequacies in the prior approval process regarding the location of housing schemes delivered through PDRs. In England, local planning authorities cannot consider the location of development through the prior approval process. As such, there have been many cases where prior approval has been granted for residential units located in isolated industrial estates with no access to green or play space and with poor connectivity and accessibility. These PDR conversions are particularly at risk of placing the most vulnerable households in isolated locations with low standards of living. Such outcomes go directly against the Sustainable, Liveable and Productive Places policies of NPF4 and are the antithesis of the Place Principle and of placemaking.

Without clear evidence to demonstrate the benefits of PDRs in addressing the housing emergency, coupled with the extensive evidence that PDRs have been used to create poor quality homes in England, we consider that the risk is too high to take a similar approach in Scotland in response to the housing emergency.

The Future Role of Permitted Development

The above demonstrates that blanket use of PDRs to deregulate the delivery of new homes in Scotland has the potential (as in England) to produce a myriad of negative (albeit unintended) consequences.

To avoid such a scenario in Scotland, it is imperative that a place-based approach is taken with a focus on place-making and joined up decision making utilising the Place Principle that duly considers the impacts on residents and the environment. To achieve this objective, we believe a different approach must be taken with respect to housing delivery compared with other development types that currently benefit from PDRs in Scotland.

The current GPDO applies to all land in Scotland, unless an Article 4 direction is applied for by a local planning authority and granted by Scottish Ministers to remove all or some of the PDR from an area. This effectively equates to an “opt-out” approach to PDRs. We do not consider that this is an appropriate response to the housing emergency in Scotland as it has the potential to produce inappropriate development in inappropriate locations (as described above). Although conditions can be attached to each class of PDR to mitigate some of these negative outcomes, we do not believe that it is possible for such blanket conditions to respond appropriately to the unique contexts of every local authority area and community across the whole of Scotland.

Rather than applying the usual “opt-out” approach, we believe it would be more appropriate for an “opt-in” approach to be applied to any future housing PDR. This would ensure that the PDR would only apply to areas that have been specifically identified by local planning authorities as suitable to benefit from planning deregulation. This could be achieved through the LDP process, which would ensure that an acceptable level of scrutiny has been applied to the selection process and that carte blanche consent is not granted to housing in inappropriate locations. This could be akin to short-term let control areas which require properties within the control area to obtain planning permission for a change of use to a short-term let. Conversely, the housing control area would identify areas where planning deregulation for certain types of housing development is considered appropriate having regard to the local context. We envisage that a variety of housing types have the potential to benefit from this kind of “opt-in” PDR approach. This will largely depend on the specific local context and will likely vary between local authorities. We do not necessarily see any



advantage, therefore, in restricting the housing types that could benefit from this mechanism. Instead, this should form part of the local authority's assessment of the sites/areas deemed suitable to benefit from such deregulation on the basis of clear evidence.

Addressing the housing emergency requires a plan-led, joined-up approach which operationalises the Place Principle and which achieves the purpose of planning and policies of NPF4. Any future expansion of PDRs in Scotland to encompass more housing developments must be implemented in a way that does not compromise the outcomes required to achieve our net zero and housing targets in a sustainable and equitable manner. In our view, PDRs should be utilised only in limited circumstances to deliver housing in locations that are compatible with the Liveable Places policies of NPF4, particularly Policy 15 relating to local living and 20-minute neighbourhoods. We see that potential exists for the deregulation of office/retail conversions where there is robust local justification to meet the housing needs of local communities and where such conversions will contribute positively to the creation of vibrant, healthy and resilient places which support the Town Centre First and Infrastructure First principles of NPF4.

Planners and the planning system have a vital role to play in tackling the housing emergency. Planners' professional judgement is crucial to ensure we are building the rights homes in the right places. It is important that this professional judgement is not sidelined or watered down through any future expansion of PDRs in Scotland.