Permitted development rights to support the provision of new homes: consultation

A response to the Scottish Government from the Town and Country Planning Association

October 2025

1 About the TCPA

The Town and Country Planning Association's (TCPA) vision is for homes, places and communities in which everyone can thrive. Our mission is to challenge, inspire and support people to create healthy, sustainable and resilient places that are fair for everyone. We do this by shaping policy and practice internationally, nationally, locally and through working with communities.

The TCPA is a charity and company limited by guarantee.

Informed by the Garden City Principles, the TCPA's strategic priorities are to:

- Work to secure a good home for everyone in inclusive, resilient and prosperous communities, which support people to live healthier lives.
- Empower people to have real influence over decisions about their environments and to secure social justice within and between communities.
- Support new and transform existing places to be adaptable to current and future challenges including the climate crisis.

2. Overarching comments from the TCPA

2.1 Extending PDR for conversion to housing undermines health outcomes

The TCPA, along with others, has raised numerous concerns about the quality and location of homes produced through permitted development rights (PDRs) in England, since the rules were changed in 2015. Since then the Government has made minor changes regarding access to natural light and minimum space standards but has done little to address wider concerns.

The TCPA agrees it is good to make use of empty buildings for urgently needed homes – if those buildings are in a suitable condition and good location to support healthy communities. However, we think that when buildings are converted to residential use it should be done through the planning system. By avoiding full planning permission and policies, PDR is problematic for several reasons. This includes:

1. **Undermining housing quality**: By avoiding planning policies that aim to promote better housing, PDR will undermine the liveable and productive place objectives in the Scottish planning system.
2. **Cutting developer contributions to affordable housing and amenities**: PDR avoids developer contributions required through planning, reducing funding for affordable housing and amenities, such as schools and GP surgeries.

3. **Undermining scrutiny and enforcement of regulations:** It is currently unclear in England how important regulations, including in relation to fire safety, are applied to PDR schemes. This lack of clarity causes confusion and complexity in the process for authorities who are already overstretched, while also putting future residents at risk.

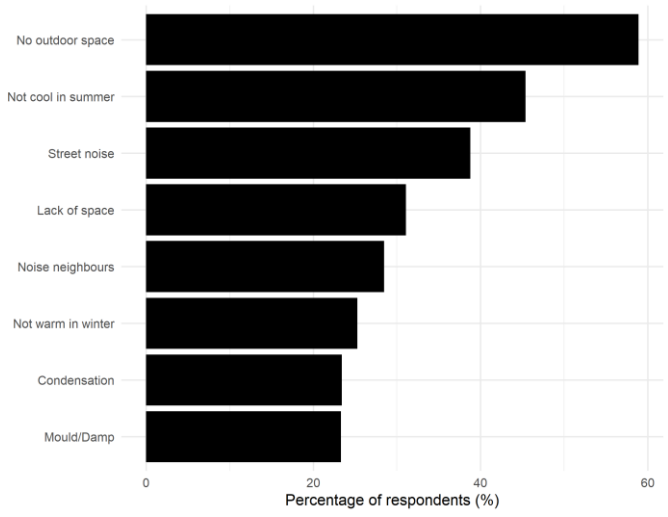
The original intention of PDR was to speed up planning approval for very minor extensions or changes to buildings. It was never intended to be used to undercut the placemaking intentions of national and local planning policy. Housing policy and rules must be about more than numbers. We need to ensure the buildings used to house people are good quality, genuinely affordable, and well connected to communities, amenities and work so that everyone can thrive.

2.2. Harming housing quality

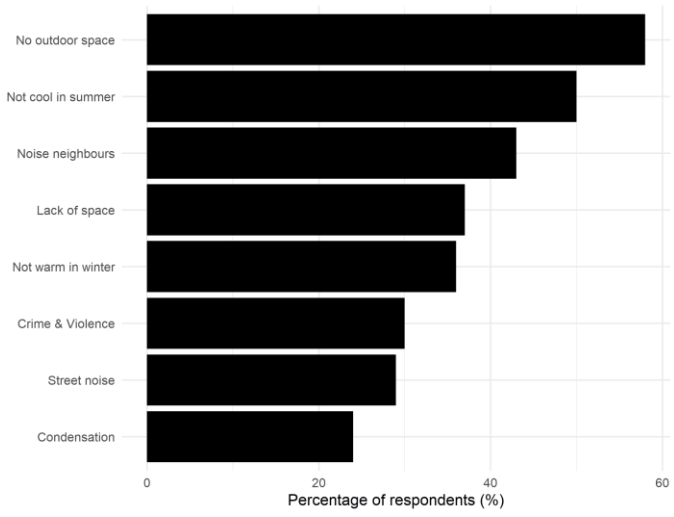
We are concerned that extending PDR for housing conversion will not help to deliver the Liveable Place and Productive Place objectives outlined in the Scottish National Planning Framework 4 - gov.scot.

The TCPA has been working in partnership with a research team from University College London (UCL) to understand the health impacts of PDR conversion to residential use. Over the last year we have surveyed over 1,000 residents living in PD housing and 89 local authority representatives.

The resident surveys identified common problems across all types of PDR housing, including residents in temporary accomodation. Common issues included overheating in summer, excess cold and damp in winter, exposure to noise – linked to the poor insulation of flats – as well as inadequate space provision.



All PD residents (n=1029)



PD residents in temporary accomodation (n=101)

Residents in temporary accommodation also described concerns about the security of their flats. Furthermore, a number of building regulations approved documents do not apply to PDR converted housing. This includes requirements on accessibilty (TCPA, 2024), so these flats are not designed for families with young children, older people, or for people with disabilities.

'...when it is hot or humid we can't physically breathe on our floor, we all have to have all the fire escapes open, which is illegal for a start.' Resident

'You can't open the windows because of security issues; therefore, there's no air in here. It's a Catch 22.' Resident

'Healthwise, obviously like the mould and the condensation… my children are full of colds, they're coughing, they have breathing issues… she's been to the hospital before.' Resident

'These doors are not child-friendly or disabled-friendly … I see my neighbour with a wheelchair and they need all the time help to get in or out." Resident

One public health officer thought it was 'entirely inappropriate' to see PDR conversion of ageing buildings that were near the end of life for commercial purposes. An environmental health officer agreed, suggesting that many PDR buildings 'would not last another 20 or 30 years without external repairs'. Others indicated that developers and landlords had little incentive to ensure buildings were in a good condition:

'PDR was about quick wins, a fast buck for dodgy developers. They are not going to be interested in investing in keeping properties up to date. They will be left until they need to be pulled down' Planning officer

'Doing development by the backdoor has allowed developers to build as quickly as possible, as low quality and as cheaply as possible and with no green spaces.' Public health officer

Some local authority consultees described using Section 257 of the Housing Act 2004 to apply housing in multiple occupation (HMO) status on PDR housing to try and improve resident rights and landlord requirements. However, enacting Section 257 was described as 'extremely resource-intensive', with limited powers to effectively enforce it:

'Enforcing S257 has been a challenge as building control have limited powers and rely on individuals to approach under HHSRS for individual assessments'. Housing Officer

2.3 Cutting contributions to affordable housing and amenities

PDR conversions reduce developer contributions towards the delivery of affordable housing and provision of amenities. In England, the Local Government Association has estimated that PDR conversion has removed contributions equivalent to at least 20,000 affordable homes through lost Section 106 contributions [Section 106 is similar to Section 75 of the Town and Country Planning (Scotland) Act 1997, as amended].

Local authority participants also commented that the realively small numbers of homes being produced via PDR conversion in some areas made it hard to justify:

'PD does not count for a big percentage of housing coming forward – A sense check is needed about whether it is worth it for such a small percentage.' Planning officer

> *'We have found no evidence in [City name] that PDR has boosted housing numbers'* Planning officer

2.4 Undermining scrutiny and enforcement of regulations

Many of the authorities that we spoke to said that PDR actually increases the complexity of the system for planning decision-makers and enforcing regulations. Regarding **prior approval** conditions, there are significant inconsistencies across the different use classes of buildings being converted. For example, in conversion of Class E / MA commercial buildings, design prior approval conditions do not apply.

> *'The difficulty is, there are so many different classes within the GDPO, it is a minefield for planning officers to know what conditions they can apply and then make a decision on whether it is appropriate and won't go to appeal...We need consistency for prior approval. It would all be solved if we didn't have PD and everything went through the planning system.'* Policy officer

Planning officers said that PDR has increased their administrative burden, reduced the time for scrutiny of applications, and reduced the fees paid to undertake that work. This is happening in public authorities that are already overstretched and underresourced.

> *'We would prefer the buildings are used for something, rather than being empty. So, the concept of change of use to residential is probably appropriate. But the list of things we can consider [in prior approval] is ever-growing.... So by the time we consider a prior approval application we are putting a lot of work into it, but getting less of a fee for it, and not being able to consider affordable hosuing.'* Local authority officer

This consultation asks what limitations should be placed on PDR change of use to residential use. This raises the question as to why extend PDR in the first place when such changes have been shown to undermine the quality of decisions and consequent development?

> *'Not sure there is a half-way house. Either PDR policy or full planning – which issues would you pick up and which would you drop? Different local authorities will have different priorities – open space, affordable housing needs vary. Very hard to set these at the national level.'* Planning officer

The TCPA is not against converting empty buildings in the right location and to a habitable standard. But change of use is already possible through the democratic and disretionary planning process. More fundamental questions should be asked: Who are these homes for? What kinds of places and communities are you trying to create? Planning policy and regulations are there for clear reasons – to protect people from harm and to promote healthy and vibrant homes and communities.

2.5 Avoid the mistakes made in England

Based on the evidence of extending PDR for residential conversions in England, the TCPA would strongly advise that Scotland does not adopt a similar approach. If it is decided to extend PDR, then we recommend the following minimum requirements must be applied:

- Health impact assessment: HIA should be applied to ensure PDR proposals will meet all the building blocks of good health (Public Health Scotland);
- Healthy Homes Principles – require PDR developers apply these twelve principles which are informed by the evidence of factors that support and promote better health outcomes (TCPA);
- Comprehensive application and resourcing of building regulations, to ensure existing standards and future Scottish Housing Standard in PD housing to prevent risk of harm.

3. Responses to specific questions

The folllowing section addresses some of the specific questions raised in the consultation.

3.1 Agricultural units or forestry buildings *(consultation questions 1, 2, 4, 5)*

Although much of the the evidence we have looked at has focused on PDR housing in urban areas, several rural councils we consulted described concerns about the isolated nature of the agricultural conversions to residential use, alongside the lack of infrastructure to support residents living in such housing.

'Agricultural conversions tend to be very different – it is often for single homes users [so maybe better quality] but are isolated with no services nearby and car bound. They can often be counter to a development plan and not create connected places.' Public health officer

'[With PDR] it is not going to be possible to improve the surrounding area if it is located in the middle of the countryside with no access.' Planning officer

Such locations can lack access to essential amenities, such as GP, schools, as well as work, this means that car dependency is more likely to be built into such conversions. While this may be unavoidable, it is why such conversions should be considered through the planning system rather than enabled via PDR.

3.2 Wider PDR change of use classes to residential use (questions 6, 10 – 16)

The TCPA does not support PDR being extended to permit change of use in additional use classes of buildings, including in city centres. In part for the reasons outlined in section 2 and more specificially, there has been genuine concern from English local authorities about the harms to local economies in terms of further undermining high street retail provision. A recent review of the implications of extending PDR in town centre high streets noted:

'The impact of PDR across the country goes beyond this immediate loss of local shops and services, damaging as it is. As high streets become pockmarked with housing, footfall in remaining shops may diminish, further threatening their viability' (UCL, 2021)

This risk applies to rural economies as well as towns and cities. For example, small communities in Cornwall have experienced the loss of the few remaining local shops, as residential properties are worth more to landlords than retail rental.

In a guest blog for the TCPA, Lord Taylor of Goss Moor described the loss of local shops via PDR conversion in the village of Roche, Cornwall.

By avoiding planning policies, there have been multiple **locational** concerns that have been raised by PDR conversion in England. PDR converted housing can be located on active, noisy and polluting industrial estates, as well as alongside major roads. Such sites expose residents to additional noise and air pollution, as well as limit access to outdoor space and recreation. Article 4 Directions provide English local authorities with only very limited discretion about where PDR conversion can take place. Local authorities reported challenges in getting an Article 4 Direction approved by the Planning Inspectorate due to the NPPF requirements and geographic restrictions.

> *'The bar for the justification and rationalisation of Article 4 directions have changed and it is harder to prove their case. Street by street evidence is needed and businesses in the community have lobbied against it. There is little interest in the evidence of poor quality, and we had to play to loss of economic growth as a consequence.' Planning officer*

Regarding the **scale of conversions**, research done for MHCLG, that examined PDR housing in eleven local planning authorities in England, found that larger building conversions tended to be poorer quality for residents. They also noted, 'lower quality housing is more likely to be produced in areas where there are higher levels of deprivation and where office markets are suffering from a lack of demand and obsolescence' (UCL 2020, pp10 & 70-71).

Despite the Westminster government introducing minimum **space standards** for PDR conversion to residential use, residents still report cramped and overcrowded conditions, unsuitable for families or individuals. Private landlords are all too often ill-equipped to manage residents of temporary accommodation in these properties.

The image depicts the ground floor bedroom in a PDR flat in a former office block used by three children.

There was no space for a cupboard. Neighbours could be heard through walls and from the flats above. There was damp and the windows and blinds were kept shut to avoid people looking in as they passed outside.

3.3 Addressing inequalities – meeting the Fairer Scotland Duty (question 36)

The findings from our research with UCL Bartlett School of Planning, and elsewhere, suggests that those being housed in PDR conversions for temporary accommodation are typically the most vulnerable groups of people from disadvantaged backgrounds. This may reflect the fact that many homes created through PDR are of such poor quality that people who have a choice will not choose to live in them. Those living in PDR temporary accommodation included victims of domestic abuse, people with substance abuse issues, people (adults and children) with mental health and neurodiversity conditions.

Housing people with such a range of complex needs together, in isolated locations with limited support systems in place, will not produce a safe, secure or healthy environment for people. It is vital therefore that the Scottish Government considers the potential impacts and equality implications of extending PDR, especially if it is likely to be used to house such vulnerable people.

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