

Permitted Development Rights Inquiry

Evidence for the HCLG Select Committee by Wildlife and Countryside Link

April 2021

Wildlife and Countryside Link (Link) is the largest environment and wildlife coalition in England, bringing together 57 organisations to use their strong joint voice for the protection of nature.

Summary

1. Permitted development rights (PDRs) should only play a very limited role in the planning system and are not a suitable system for the delivery of new homes. The current PDRs are not very limited and the recent consultation on further extension of PDRs is of considerable concern to Wildlife and Countryside Link.¹
2. There is significant evidence, as we detail below in response to the inquiry questions, of the adverse impacts of PDRs on the quality and quantity of new housing, on local planning authorities, developer contributions and the provision of infrastructure and services, on the ability of local planning authorities to plan development and shape their communities, and on the ability of communities to engage in the planning process.
3. In addition to responding to the inquiry questions, we have provided evidence on the potentially significant negative impacts of PDRs on the natural and historic environment. This is a missing but crucial question, as the planning system has an important role in tackling the climate and ecological emergencies and in building beautiful places for the health and wellbeing of the people and communities who live there. The planning system can be an influential lever to help meet the Government's ambitions in the 25 Year Environment Plan to halt the decline of nature,² but an upping of ambition is required. The planning system must have the protection and restoration of the environment at its heart when making land use decisions, designing places and planning development. While our concerns about the impact of PDRs on the environment warrant their own section in the below submission, the environment is intertwined with housing, places, infrastructure, local planning authorities and communities, and thus where our evidence is relevant and applicable, it may repeat.
4. The adverse impacts of PDRs on people, communities, nature, climate and heritage that we identify and provide evidence for in the following submission, include:
 - Poor quality and poorly designed housing and fewer affordable homes
 - Poor quality and ugly places, leading to poor health, wellbeing and quality of life for people
 - Removal of the ability of local planning authorities to plan strategically to ensure the right development is in the right place and to assess and manage the cumulative effects of new or expanded developments, on sites, species, habitats, accessible green spaces, or wider infrastructure like public transport and water usage
 - Removal of the ability of local planning authorities to take into account climate, ecological and heritage considerations due to the narrowing of list of matters in the prior approval process

¹ Wildlife and Countryside Link (Link) is the largest environment and wildlife coalition in England, bringing together 57 organisations to use their strong joint voice for the protection of nature. Our members campaign to conserve, enhance and access our landscapes, animals, plants, habitats, rivers and seas.

² Land Use Futures: Making the most of land in the 21st century (2010): <https://www.gov.uk/government/collections/land-use-futures>

- Negative impacts on species and habitats in and around PDR developments, due to a lack of requirement for mitigation measures and an evidenced lack of consideration of protected species
 - No contribution to nature's recovery, due to the exemption of PDR developments from Biodiversity Net Gain and from Section 106 developer contributions that might be used to secure green infrastructure for nature, climate and people
 - Increased pressure on protected sites and existing green infrastructure and locally accessible green spaces due to additional residents in an area, with no requirement to make any financial contribution towards their upkeep or further provision
 - Lack of scrutiny for local planning authorities and communities over land use changes and lack of voice in shaping their communities according to local needs and knowledge
5. Contrary to the Government's vision in the Planning White Paper to plan for well-designed and beautiful places and its ambitions in the 25 Year Environment Plan, PDRs will not provide high quality development or places and it will not protect or enhance the historic or natural environment to ensure the environmental outcomes necessary for nature's recovery, climate mitigation, and the health and wellbeing of people and communities. The extent of PDR provisions already in place, and soon to be expanded, are fundamentally at odds with the principles of good quality and effective place-making.
6. Both in the proposals to extend PDRs and other changes to the planning system, we are concerned about the Government's lack of consideration of the environmental impacts and their repercussions on nature, climate and people. It is difficult to evaluate the impacts of PDRs as there is no requirement for any body to measure or report on them. Despite being hugely expanded in recent years, there exists no mechanism to understand the cumulative impacts of PDRs. The scale and pace of the Government's deregulatory drive and the multiple changes to the planning system under consideration—including the reforms proposed in the Planning White Paper, amendments to Strategic Environmental Assessment (SEA) and Environmental Impact Assessment (EIA), the introduction of a draft National Model Design Code, and the proposed narrowing of Article 4 directions in the NPPF—may result in a lack of scrutiny over these individual changes and their cumulative effect. We caution that it is challenging to evaluate these proposals to extend PDR in an uncertain and quickly-changing wider planning context.

Responses to selected questions:

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

7. The need and case for permitted development rights (PDRs) in the planning system are not evidenced or convincingly justified by Government. PDRs have been introduced as a measure to address the need for more homes and as a perceived solution to struggling high streets. However, the planning system is not the cause of the delay in delivery of housing. Current approval levels of planning applications are consistently high: local planning authorities approved 87% of all planning applications in 2019 and 88% of all applications in 2018.³ The Letwin Review found that slow build-out rates are the cause of delay in the delivery of housing, not the planning system.⁴ Figures from the Local Government Association support these findings, indicating that permissions for over one million homes are already in place but not built out.⁵ The evidence demonstrates that the existing planning system, based on planning applications, is not a barrier to good development: it consents

³https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/875032/Planning_Applications_Statistics_October_to_December_2019.pdf

⁴<https://www.gov.uk/government/publications/independent-review-of-build-out-final-report>

⁵<https://www.local.gov.uk/housing-backlog-more-million-homes-planning-permission-not-yet-built>

the overwhelming majority of planning applications (providing consistency and surety to developers), provides safeguards to society by rejecting the very worst applications and helps to bring weaker proposals up to an acceptable standard.

8. The Government's proposal to extend PDRs is not only aimed at a false target, there is much evidence that increased PDRs will not actually deliver the Government's aims of delivering housing and supporting high streets. Responses from a diverse range of organisations to the Government consultation "Supporting housing delivery and public service infrastructure"⁶ recognised the importance of addressing these issues but concluded that increased PDRs are not the best option to do so.⁷
9. Permitted development rights can only play a very limited role in the planning system, and are not a suitable system for the delivery of new homes nor the delivery of large-scale development. The current PDRs are not very limited and the recent consultation on further expansion is of considerable concern. As this submission will discuss in detail below, permitted development rights could lead to adverse impacts on the delivery of quality housing, including affordable and social housing, the natural and historic environment, the creation of beautiful and sustainable places, the provision of local and green infrastructure for communities, the loss of control for local planning authorities and communities to shape their communities, and the reduction of public scrutiny and community engagement and buy-in to land use changes, planning applications and development.

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

10. PDRs lead to poor quality housing development as well as to poor quality places and communities. There is substantial evidence, including from CPRE – The countryside charity⁸, The Royal Institute of Chartered Surveyors (RICS)⁹, and the Government itself,^{10,11} that housing development created through PDR is of low quality. Proposals to extend PDRs undermine the Government's stated aims for beautiful and well-designed development. While the Government has recently published a draft National Model Design Code to inform local Design Codes, there is no requirement in these proposals to effectively implement Design Codes to ensure the quality and sustainability of PDR development.
11. PDRs also lead to poor quality places. Research from TCPA on the impacts of permitted development on neighbourhoods and communities has clearly established that permitted development makes place-making impossible, undermines the ability for local people to shape their communities and deprives local planning authorities of funding for infrastructure, including green space.^{12,13} The Government's own research has found that permitted development rights have resulted in poorer health, wellbeing, and quality of life for residents, compared to homes that

⁶ <https://www.gov.uk/government/consultations/supporting-housing-delivery-and-public-service-infrastructure/supporting-housing-delivery-and-public-service-infrastructure>

⁷ <https://commonslibrary.parliament.uk/research-briefings/sn00485/>

⁸ <https://www.cpre.org.uk/resources/housing-design-audit-2020/>

⁹ <http://offlinehbpl.nbpl.co.uk/NewsAttachments/RLP/RICSExtendingPermittedDevelopmentRights.pdf>

¹⁰ <https://www.gov.uk/government/publications/living-with-beauty-report-of-the-building-better-building-beautiful-commission>

¹¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/902220/Research_report_quality_PDR_homes.pdf

¹² <https://www.tcpa.org.uk/Handlers/Download.ashx?IDMF=db495779-2fe6-4f3f-9c6d-6fc63b993489>

¹³ When using PDR, developers not required to pay Section 106 contributions. They are liable for Community Infrastructure Levy (CIL), but the Government's own report found that developers often avoid CIL payment through a loophole by claiming at least partial occupancy of the office space before conversion/change of use and by not creating any additional floorspace (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/902220/Research_report_quality_PDR_homes.pdf).

are planned.¹⁴ Permitted development rights are not compatible with the Government's stated aim in the Planning White Paper to create well-designed, beautiful, sustainable places.

12. Finally, increased PDRs will not lead to increased provision of affordable housing. It has not in the past: a briefing from the London Councils found that permitted development rights for office to residential conversions introduced in May 2013 resulted in a loss of new affordable housing supply.¹⁵ The Local Government Association estimated that as many as 10,500 affordable homes had been lost, primarily because developer contributions towards affordable housing could not be sought on such PDR conversions.¹⁶ The Government's response to the "Supporting housing delivery and public service infrastructure"¹⁷ recognised that the proposed PDR right could lead to an impact under the Public Sector Equality Act because PDRs do not require affordable housing or financial contribution, potentially leading to less affordable or sheltered housing units available for people who require protection.¹⁸

Impacts of PDR on the natural and historic environment

13. There are potentially significant adverse impacts of PDRs on the natural and historic environment. Given the potential negative consequences of PDRs on the environment and the Government's stated intentions in the PWP and its ambitions in the 25 Year Environment Plan to deliver better environmental outcomes and recover nature, we are deeply concerned that the environment was not given any consideration by the Government in the most recent proposals to expand PDRs in the consultation document¹⁹ or in the consultation response.²⁰
14. Firstly, PDRs remove the ability of local planning authorities and communities to ensure the sustainability of the location of new or expanded development. The typical Local Plan-led approach allows local planning authorities to plan strategically to direct the location of new housing to sustainable locations and to plan for the increase in residents as a result of the new housing. Local planning authorities have no ability to assess or manage cumulative impacts of PDR development on species, habitats, accessible green spaces, wider community infrastructure or climate mitigation and resilience.
15. While strategic planning is important effective land use planning everywhere, it is especially crucial in areas with special natural and historic environmental characteristics. Many PDRs do not apply in National Parks, the Broads, AONBs and World Heritage Sites because decisions on new developments and changes of use in designated landscapes require a full planning application in order to effectively take into account their statutory purposes and the need to protect and enhance their special qualities. The importance of a full planning application was recognised in the Glover Landscapes Review, which recommended that the current PDR system be reviewed and that further PDRs should be added to the list of those currently withdrawn in designated landscapes.²¹

¹⁴ <https://www.gov.uk/government/publications/quality-standard-of-homes-delivered-through-change-of-use-permitted-development-rights>

¹⁵ https://www.londoncouncils.gov.uk/sites/default/files/Policy%20themes/Housing%20and%20planning/The%20Impact%20of%20Permitted%20Development%20Rights_web.pdf

¹⁶ <https://www.planningresource.co.uk/article/1519756/councils-air-permitted-development-extension-concerns>

¹⁷ <https://www.gov.uk/government/consultations/supporting-housing-delivery-and-public-service-infrastructure/supporting-housing-delivery-and-public-service-infrastructure>

¹⁸ <https://www.gov.uk/government/consultations/supporting-housing-delivery-and-public-service-infrastructure/outcome/supporting-housing-delivery-and-public-service-infrastructure-government-response>

¹⁹ <https://www.gov.uk/government/consultations/supporting-housing-delivery-and-public-service-infrastructure/supporting-housing-delivery-and-public-service-infrastructure>

²⁰ <https://www.gov.uk/government/consultations/supporting-housing-delivery-and-public-service-infrastructure/outcome/supporting-housing-delivery-and-public-service-infrastructure-government-response>

²¹ <https://www.gov.uk/government/publications/designated-landscapes-national-parks-and-aonbs-2018-review>

For the same reasons, PDRs should be excluded from conservation areas and areas adjacent to protected sites of international, national and local importance. Developments in these areas should also be subject to a normal planning application so that their impacts upon areas crucial for the natural and historic environment can be fully assessed and any changes of land use can be scrutinised. All development and land use decisions should be informed by a Local Nature Recovery Strategy (LNRS). Despite majority opposition to the Government's proposals for PDRs to apply in conservation areas (unlike existing PDRs), the Government plans to forge ahead.²²

16. PDRs also remove the ability of local planning authorities to ensure the protection and management of the environment through the Government's tight restriction upon the matters local planning authorities can consider in the prior approval process. Local planning authorities are unable to require climate mitigation and adaptation measures to be put in place before granting planning permission. They cannot consider impacts upon ecology and the natural or historic environment. They have no ability to ensure PDR developments are good quality and sustainable, for example, through having the authority to require new developments follow local Design Codes. They cannot take into account the environmental limits of an area in terms of water use and increased pressure on local infrastructure and green infrastructure, including increased footfall and usage of protected sites and locally accessible green spaces, brought by new housing development. While the Government acknowledged in their response to the consultation that many consultation responses called for an expanded list of prior approval matters, only two unrelated matters were added.²³ There was no mention of the design, heritage, climate, and nature considerations that Wildlife and Countryside Link identified and several other organisations raised in a public joint statement and individual submissions to the consultation.²⁴
17. A particular environmental risk posed by PDRs is the lack of consideration of protected species. Although all developments, including PDR developments, are required to meet necessary habitat and environmental regulations, ecology is not expressly referred to as one of the prior approval issues for local planning authorities to consider. Work by the Bat Conservation Trust has shown that this lack of clarity has led to a lack of consideration of protected species in PDR development.²⁵ The Government's proposals do not consider the risk of PDR on statutory protected species, as required by the Government's biodiversity duty under section 40 of the Natural Environment and Rural Communities Act (2016).
18. We are also concerned about the adverse impacts on species and habitats due to the inability of local planning authorities to require mitigation measures from PDR developments. In addition to preventing mitigation for new development, extending PDRs could undermine existing development mitigation, whether the measures for the original development were voluntary or required for planning consent.
19. The risks to nature, climate and people posed by the use and extension of PDRs are even greater with respect to large-scale development, including housing development. Large-scale housing development should be plan-led and informed by Local Nature Recovery Strategies in order for these developments to be steered to suitable locations. Housing development offers a significant opportunity to create sustainable and beautiful places for nature and people.²⁶ For example, the

²² <https://www.gov.uk/government/consultations/supporting-housing-delivery-and-public-service-infrastructure/outcome/supporting-housing-delivery-and-public-service-infrastructure-government-response>

²³ <https://www.gov.uk/government/consultations/supporting-housing-delivery-and-public-service-infrastructure/outcome/supporting-housing-delivery-and-public-service-infrastructure-government-response>

²⁴ <https://www.wildlifetrusts.org/sites/default/files/2021-01/Joint%20Statement%20on%20PDR%20consultation%2013%20January%202021%20signed.pdf>

²⁵ <https://www.bats.org.uk/news/2014/06/ongoing-issues-with-new-permitted-development-legislation-related-to-agricultural-buildings>

²⁶ https://www.wildlifetrusts.org/sites/default/files/2018-05/homes_for_people_and_wildlife_lr_-_spreads.pdf

new settlement of Cambourne, three inter-linked villages with 4200 homes, was designed around existing habitat features which were used as the building blocks for a network of local green spaces. These green spaces joined and permeated each of the three villages, giving residents and wildlife easy access to the whole network. The design of Cambourne and its commitment to active management of its greenspaces through a partnership through the new Cambourne Parish Council and the local Wildlife Trust has made the community a safe and attractive place where people want to live and engage with their local environment and where wildlife can thrive.²⁷ By being consented under PDRs, large-scale housing development does not have to consider sustainable location, good design and placemaking, and other climate and ecological considerations. Instead of harnessing development to contribute to nature's recovery and the achievement of net zero, large-scale developments under PDRs will undermine these aims.

20. Given we must not just halt biodiversity decline in England, but actually reverse it, all new development must contribute to nature's recovery. This has been recognised by the Government in the pioneering Biodiversity Net Gain policy, which requires developments to secure a 10% biodiversity net gain. However, contrary to the Government's stated aims, PDR development is exempt from Biodiversity Net Gain. Furthermore, PDR developments are exempt from Section 106 contributions that local planning authorities can use for the creation and maintenance of high quality, accessible natural green infrastructure crucial for nature, but also climate and people. While PDR developments are liable for Community Infrastructure Levy, they often avoid CIL payments through a loophole by claiming at least partial occupancy of the office space before conversion/change of use and by not creating any additional floorspace.²⁸ Especially as PDR developments will bring in new residents to an area, developer contributions to expand and maintain these green spaces to mitigate the risk of adverse environmental impacts (including those to nearby protected sites) from increased footfall and usage are necessary.

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

21. The COVID-19 pandemic has highlighted the importance of locally accessible nature-rich green space.^{29,30} As well as being integral to the beauty of places and for the health and wellbeing of local people, green infrastructure is also important for nature's recovery and adapting to climate change. While PDRs put additional pressure on existing natural green space and nearby protected sites from additional residents in an area, there is no requirement for financial contributions through Section 106 planning obligations from developers to put towards the upkeep or further provision of locally accessible natural green spaces. As well, although PDR developments are liable for Community Infrastructure Levy, they often avoid CIL payments through a loophole by claiming at least partial occupancy of the office space before conversion/change of use and by not creating any additional floorspace.³¹ PDR increases the density of residents but does not create better or more beautiful places, inconsistent with the Government's stated aspirations for better placemaking.
22. The Government's proposals and the exemption of PDR developments from developer contributions are likely to have a disproportionate impact on urban and poorer communities, where access to natural green space provision is already lower, contributing to and compounding

²⁷ <https://www.wildlifetrusts.org/news/governments-planning-reforms-must-address-nature-and-climate-crisis>

²⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/902220/Research_report_quality_PDR_homes.pdf

²⁹ https://www.rspb.org.uk/globalassets/downloads/recovering-together-report/recovering-together-report_nature-and-green-recovery_rspbyougov_june-2020.pdf

³⁰ <https://www.rspb.org.uk/globalassets/downloads/get-involved/campaigning/rspb-greenspace-report.pdf>

³¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/902220/Research_report_quality_PDR_homes.pdf

health inequalities,³² and where people with protected characteristics are more likely to be disproportionately represented.

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

23. PDRs undercut the Local Plan-led system where local planning authorities can plan strategically, informed by community voices, Local Nature Recovery Strategies and an understanding of the bigger picture of land use planning, including nature's recovery and cumulative environmental impacts within the area. Instead, PDRs undermine the ability of local planning authorities to plan for well-designed, beautiful, and sustainable communities.
24. For example, while greater use of PDRs will result in more development affecting public rights of way, local planning authorities will not be able to give prior administrative consideration of the rights of way themselves.

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

25. PDRs result in the loss of the voices of local communities and people in shaping their communities. It reduces democratic public scrutiny over land use changes and development applications and eliminates meaningful community engagement. Even where prior approval provides for some public consultation, the scope of matters for consideration are very limited and may not address the issues that are of most importance to local communities (e.g. nature and climate, affordable housing, access to local natural green space and public rights of way) and there is a more limited timeframe for response. By restricting the control of local communities in shaping their communities, PDRs reduce their trust in the planning system and decisions and limits the possibility of future community participation.

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

26. No. The Government's proposals to extend PDRs are not consistent with its vision in the Planning White Paper to plan for well-designed, beautiful, and sustainable places. PDRs have been proven to lead to low quality development and places. PDRs will not protect or enhance the historic or natural environment to ensure the environmental outcomes necessary for nature's recovery, climate mitigation, and the health and wellbeing of people and communities.
27. We are concerned about the Government's lack of consideration of the environmental impacts for nature, climate and people in both these proposals to extend PDRs and other changes to the planning system. It is difficult to evaluate the impacts of PDRs as there is no requirement for any body to measure or report on it. Despite being hugely expanded in recent years, there exists no mechanism to understand the cumulative impacts of PDRs. We are concerned about the lack of scrutiny of extending PDRs, especially in the wider context of the scale and pace of the Government's deregulatory drive. It is challenging to evaluate the proposals to extend PDRs in the wider planning context, given the other changes to the planning system under consideration, including the reforms proposed in the Planning White paper, amendments to SEA and EIA, the introduction of a draft National Model Design Code. Of particular relevance to this inquiry is the

³²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/904439/Improving_access_to Greenspace_2020_review.pdf

proposed amendments to the NPPF, which includes the narrowing of the use of Article 4 directions, which give local planning authorities the ability to withdraw PDRs in an area.³³

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This response is supported by the following Link members:

Bat Conservation Society

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Campaign for National Parks

CPRE – The countryside charity

Friends of the Earth

Open Spaces Society

Ramblers Association

The Wildlife Trusts

Woodland Trust

³³ <https://www.gov.uk/government/consultations/national-planning-policy-framework-and-national-model-design-code-consultation-proposals>