

## Chartered Institute of Housing submission to extending permitted development rights

The Chartered Institute of Housing (CIH) welcomes the opportunity to respond to this consultation and would be happy to discuss any details of our response. We have only answered the questions which relate to our remit as the professional body for people working in housing.

### Introductory comment

It is well evidenced and acknowledged that there is a pressing need for more homes in this country. But not just more homes, more homes that are decent, safe, accessible and affordable. Given both the level of the housing crisis and the length of time to deliver new homes, it is important that consideration be given to ways to deliver more homes in a shorter time frame, and converting buildings for housing could be part of the solution. **However, the ever-increasing move towards deregulation through the continual expansion of permitted development rights (PDR) over the last decade is concerning. In its current form, the PDR process does not ensure the necessary standards and safeguards are in place to deliver the new quality homes we need.**

PDR first emerged within the 1947 Planning Act, with the intention of removing the administrative burden of dealing with minor extensions to homes and buildings. Where we find ourselves now, since the government introduced the concept of utilising PDR to actively create new homes, is a far cry from that original intention. This current consultation furthers the government's drive for using PDR as a means of addressing the housing crisis, with a previous consultation on a raft of additional measures only concluding last September (CIH's response to which can be found [here](#)) and the most recent announcements having just been made on removal of the 1,500sqm maximum floorspace limit for Class E uses being converted to residential use, and the removal of the 3-month vacancy requirement for Class MA.

CIH have continually advised against this [relentless expansion of PDR](#). [House of Common Research](#) reports that in the seven years between 2015/16 and 2022/23, a total of 102,830 new homes were created through change-of-use PDR. While some of these homes are of a good quality, many are not, with reports of people living in damp, poorly lit, cramped, noisy, insecure and isolated properties. Without the necessary safeguards to support sustainable development and ensure the health and well-being of residents, the reality has been a long way from the homes we should be creating ([as captured in the TCPA photobook](#) and

highlighted by the [government's own commissioned research](#)). 'Homes' have often been created in entirely unsuitable locations, completely inappropriate for people without access to cars, and isolated from local shops, services, and transport links. Recent [research by the TCPA](#) found that **"by removing the requirement to obtain full planning consent, the government has taken away a key mechanism for ensuring good quality homes in appropriate locations"**.

As the government has repeatedly stated "every single person in this country - irrespective of where they are from, what they do or how much money they earn - deserves to live in a home that is decent, safe and secure " ([DLUHC](#)). Decent and affordable homes make our lives better - improving our health and wellbeing and providing the safe and secure foundation we all need. But shortages and unequal access to housing mean that too many people are forced to live in overpriced, insecure and poor-quality homes. There is an acute need for more affordable housing, and this is disproportionately impacting low-income households. The chronic undersupply of genuinely affordable, settled housing is a key driver of homelessness with more and more households in temporary accommodation for an increasing length of time. **Tackling undersupply is, however, about more than the number of units. We need to ensure we deliver homes that are fit for purpose for the existing and future needs of the population, well connected to facilities and services that contribute to thriving places, and that meet wider climate change challenges.**

The PDR regime undermines local authorities' abilities to 'plan' for the types of homes needed in the right location, as the local plan process is effectively sidestepped. It also undermines their ability to ensure contributions to necessary social and physical infrastructure, as the Section 106 agreements that would otherwise be made through a planning application are not present. Such agreements play a vital role in ensuring that the impact of having more homes in an area is appropriately mitigated, and that supporting infrastructure such as green space, community and healthcare facilities, affordable housing, roads and public transport, are all in place for new residential developments.

It doesn't have to be like this. We are urging the government, and all political parties, to commit to a long-term plan for housing which recognises it as the foundation for creating healthy and sustainable communities. A generational step-change in social housebuilding is required to boost housing supply, help families struggling to meet housing costs, and tackle housing waiting lists. This supply challenge cannot be fixed quickly, but government must commit to increasing the supply of truly affordable homes to rent and buy. This should include:

- Financial reforms
  - Increasing investment and redirecting subsidies.
  - Allowing flexibility in grant programmes.
  - Providing a long-term rent settlement.

- Changing the way government accounts for housing debt to unlock additional investment.
- Addressing policies undermining supply
  - Suspending Right to Buy until replacement catches up with homes lost and then reducing the discount to minimise losses.
  - Reducing the number of long-term rentals lost to short term lets.

More information on CIH's approach for more and better homes can be found in our [10 point plan](#) and our [Strategy for housing](#).

### **Construction of new dwellinghouses on a freestanding block of flats**

#### **Q.27 Do you have any views on the operation of the permitted development right that allows for the construction of new dwellinghouses on a freestanding block of flats (Class A of Part 20)?**

Yes.

We are concerned about the operation of this permitted development right that allows for the construction of new dwelling houses on a free-standing block of flats. Anecdotally we have heard reports (such as in [Harlow and Newham](#)) where significant issues have occurred for residents already living in PDR properties where additional floors have been added. The latest [research by the TCPA](#) found the current rules around permitted development are highly complex, difficult to understand and implement, and various loopholes exist in building regulations for residential properties that are produced from converted buildings (according to guidance on 'material change of use').

We would strongly recommend a pause on this PDR until a full and independent review of the structural and utility safety of such additions has been undertaken, with a view to establishing additional protections before any further applications. Additional protections should include a requirement for an independent third-party check of the building condition, post construction and prior to residents moving into the new dwelling house. In the aftermath of the fire at Grenfell Tower and given government's well-placed focus on building safety over recent years, we would argue that greater, not less regulation is needed to ensure the safety of homes, especially where these are blocks of flats. We believe that all policy and legislative frameworks should work to ensure higher quality homes that will provide for the health and safety of residents and the wider local community.



**Q.28 Do you agree that the existing limitations associated with the permitted development right for building upwards on a freestanding block of flats (Class A of Part 20) incorporates sufficient mitigation to limit impacts on leaseholders?**

No.

Please refer to our answer to Q 27.

**Changes to the permitted development right for demolition and rebuild.**

**Q.30 Do you agree that the limitation restricting the permitted development right to buildings built on or before 31 December 1989 should be removed?**

No.

We do not agree with the existing permitted development right (under Class ZA of Part 20) allowing for the demolition of certain single detached buildings and the construction of a block of flats or a single dwelling in its place. Therefore, we do not consider that this right should be further extended by removing the age restriction.

Our reasons for opposing this existing PDR and therefore its expansion are as follows:

- Without the need for a full planning application there will be no need to demonstrate that the location for more homes meets local plan policies regarding the suitability of the residential locations
- Certain regulatory gaps are present through the PDR/material change of use route that are not present through the planning application route.
- Demolitions and re-builds (and potential change of use) are not required to make vital contributions and local amenities (including affordable housing) that would usually be negotiated through section 106 agreements.

We are also concerned about the loss of embodied carbon that will result from the demolition of relatively new buildings. We consider that a whole lifecycle carbon assessment should be applied to buildings before demolition is considered.

**Q.31 If the permitted development right is amended to allow newer buildings to be demolished, are there are any other matters that should be considered?**

We do not consider that this right should be further applied, as outlined in our response to Q.30.

**Q.32 Do you agree that the permitted development right should be amended to introduce a limit on the maximum age of the original building that can be demolished?**

We do not agree with the permitted development right allowing for the demolition of certain single detached buildings and the construction of a block of flats or a single dwelling in its place regardless of the age of the building. We believe that this right goes beyond what is appropriate to be delivered through a national permitted development right and should go through the planning application process route.

**Q.33 Do you agree that the Class ZA rebuild footprint for buildings that were originally in use as offices, research and development and industrial processes should be allowed to benefit from the Class A, Part 7 permitted development right at the time of redevelopment only**

No.

We do not agree. These demolitions and rebuilds for residential use may not be in suitable locations for residential development and there will be a loss of developer contributions to community amenities via Section 106 agreements.

**Q.34 Do you think that prior approvals for the demolition and rebuild permitted development right could be streamlined or simplified?**

No.

We do not consider the prior approval process should be simplified or streamlined as we do not support a PDR which allows for demolition and rebuild. Without the need for planning permission for these new buildings the prior approval process is essential to ensure any level of scrutiny. It is our view that PDR standards need to be strengthened to ensure developments are of high quality. In line with the recommendations in the [joint inquiry report into rethinking commercial to residential conversions](#), we would support the introduction of minimum mandatory standards applicable to both homes delivered through planning application and those delivered through PDR.

## **Changes to permitted development right for air source heat pumps withing the curtilage of a domestic building**

### **Q.44 Do you agree that the limitation that an air source heat pump must be at least 1 metre from the property boundary should be removed?**

Yes.

As noted in the consultation document the one metre rule was introduced as a proxy measure to mitigate noise concerns. Instead of restricting where a heat pump can be installed, the focus should be on addressing noise concerns by ensuring that heat pump installations comply with the 42dB limit.

### **Q.45 Do you agree that the current volume limit of 0.6 cubic metres for an air source heat pump should be increased?**

Yes.

Current volume restrictions on the size of heat pumps that can be installed under permitted development are (as the consultation document itself notes) a barrier to innovation in noise reduction techniques. Providing that heat pump installations adhere to noise limitations, relaxing the size restrictions could accelerate heat pump adoption, so we support removing current controls so long as the rules on noise limits are kept in place.

### **Q.46 Are there any other matters that should be considered if the size threshold is increased?**

Yes. The size threshold to be adopted should be agreed in consultation with experts in the field to ensure it is sufficient to enable the most efficient and quiet heat pumps to be installed under PDR.

A starting point could be if heat pump volume/size limitations are increased to mirror that of permitted development right for external structures for fossil fuel heating systems in the [Town and Country Planning \(General Permitted Development Order\) 2015 Schedule 2, part 1, class E](#) . Given the pressing need to decarbonise home heating as part of the move to net zero, it seems sensible that heat pumps receive the same level of flexibility on size/volume as fossil fuel boiler systems provided the rules on noise are kept in place.

### **Q.47 Do you agree that detached dwelling-houses should be permitted to install a maximum of two air source heat pumps?**

No.

Permitting multiple air source heat pumps at a single detached dwelling-house could help to address the heating needs, emission targets and energy efficiency of larger homes, particularly in rural areas. Many homes, particularly in rural locations, currently rely on storage heaters as other sources of heating have not been feasible. For those homes, the most practical solution could be heat pump units, which could necessitate more than two units for one detached dwelling-house. Collective noise limitations of multiple heat pumps should apply.

**Q.48 Do you agree that stand-alone blocks of flats should be permitted to install more than one air source heat pump?**

Yes.

With [over 20 percent of the population in England](#) living in flats, if we are to progress towards energy efficiency and get anywhere near the [government's target](#) of installing 600,000 heat pumps per year in existing homes by 2028, then we must make it easier for heat pumps to be installed for everyone, including people living in stand-alone blocks of flats.

A range of solutions will be needed to meet the practical limitations of available space, building design, and heat needs of blocks of flats, and whilst heat pumps will not be a 'one-size fits all' solution, installing more than one heat pump could play an important role in some scenarios. Allowing multiple air source heat pumps to be installed on blocks of flats is something CIH supports as part of the multi-solution approach to decarbonising heating, so long as collective noise limitations of multiple heat pumps apply.

**Public Sector Equality Duty**

**Q.53 Do you think that the changes proposed in this consultation could give rise to any impacts on people who share a protected characteristic (Age; Disability; Gender Reassignment; Marriage or Civil Partnership; Pregnancy and Maternity; Race; Religion or Belief; Sex; and Sexual Orientation)?**

Yes.

Residential developments through the PDR system bypass the full planning application process and do not enable local authorities to plan to meet the needs of their local communities, including people experiencing poorer quality housing who have less ability to resolve this through the market. As the regime currently stands there are insufficient safeguards and standards in place to ensure the quality of homes being created through the PDR route will not exacerbate yet further existing inequalities. Many important issues cannot be considered adequately, if at all, through the prior approval process, including health and



wellbeing, design and location. Conversions have often occurred in entirely unsuitable locations, completely inappropriate for people without access to cars, and isolated from local shops, services, and transport links. We must consider how disabled and older residents might live well in these conversions. Despite unsuitable locations, such schemes have often housed households experiencing homelessness, either as privately rented housing, funded through exempt Housing Benefit, or as statutory temporary accommodation. The push to expand PDRs as a means of generating new homes without addressing the safeguards and standards needed runs the risk of more people being forced to live in inadequate and inappropriate housing through conversions or rebuilds.

CIH is part of the [Housing Made for Everyone \(HoME\) coalition](#) and a supporter of TCPA's [Healthy Homes](#) principles and we would like to see these considered more in the PDR regime. In July 2022, the government [committed](#) to raising the accessibility and adaptability standard for new homes. We would urge it to bring that commitment into effect with urgency and to ensure that all policies introduced do not conflict with the delivery of much-needed new accessible and adaptable homes.

### **About CIH**

The Chartered Institute of Housing (CIH) is the independent voice for housing and the home of professional standards. Our goal is to provide housing professionals and their organisations with the advice, support, and knowledge they need. CIH is a registered charity and not-for-profit organisation. This means that the money we make is put back into the organisation and funds the activities we carry out to support the housing sector. We have a diverse membership of people who work in both the public and private sectors, in 20 countries on five continents across the world. Further information is available at: [www.cih.org](http://www.cih.org).

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