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# Permitted development, housing and health: a review of national policy and regulations

Has the expansion of permitted development in planning in England affected the health impacts of housing?

February 2024

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**Permitted development, housing and health: a review of national policy and regulations**

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**Cover image: office block converted into flats through permitted development©**

Rob Clayton

**About the TCPA**

The Town and Country Planning Association (TCPA) works to challenge, inspire and support people to create healthy, sustainable and resilient places that are fair for everyone. To this end we aim to improve the art and science of planning in the UK and abroad and work to secure fresh perspectives on major issues, including planning policy, housing, regeneration, and climate change. 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.

**About the UCL Health Impacts of Converted Housing study**

The Health Impacts of Converted Housing study is a three-year research project by the Bartlett School of Planning, University College London (UCL), funded by the National Institute for Health and Care Research (NIHR). The study is examining housing located in buildings converted through permitted development rights (PD) from a previous non-residential use, such as from offices or industrial buildings into residential flats. It is seeking to better understand how such housing effects residents' health and wellbeing and how best to manage such existing properties and govern conversions in the future. The TCPA is a partner in the project.

Project website: [www.uclpdhousing.co.uk](http://www.uclpdhousing.co.uk)

NIHR disclaimer: This study/project is funded by the NIHR. The views expressed are those of the author(s) and not necessarily those of the NIHR or the Department of Health and Social Care.

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# Glossary and definition of terms

**Article 4** - Article 4 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) allows local planning authorities and the Secretary of State to issue directions withdrawing permitted development rights for certain works in a specified area.

## **BSR - Building Safety Regulator**

**CIL - Community Infrastructure Levy.** CIL is a legally enforceable fee that applies to most new development to contribute towards local infrastructure such as roads, transport, and new schools. The CIL was introduced by the Planning Act 2008.

**DHS - Decent Homes Standard** This is a technical standard for social housing which aims to provide a minimum standard of housing conditions. At the time of publication, a review is considering whether to apply the standard to the private rental sector.

**Developer contributions** – the financial contribution made by developers associated with a planning application to mitigate the impact of a development on local infrastructure, amenities and affordable housing needs. This can be in the form of Community Infrastructure Levy or Section 106 agreements.

**GDO / GPDO - General Development Orders / General Permitted Development Orders.** GDPOs are secondary legislation that grant permission for certain types of development without the need for a local planning application.

**HHSRS - Housing Health and Safety Rating System.** This is an assessment system based on 29 criteria to help LPAs / LHAs identify and assess potential hazards and their risk in housing. It is not a standard or minimum requirement. It has undergone review and new regulations are required to enact the revisions.

**HMO - Housing in Multiple Occupation.** Residential properties where 'common areas' exist and are shared by more than one household e.g. shared bathrooms.

## **LPA - Local Planning Authority**

## **LHA - Local Housing Authority**

**Material considerations** - 'material considerations' in planning are issues which are relevant to making planning decisions (e.g. whether to grant or refuse planning permission). The scope of what can be a material consideration is wide. National planning policy and guidance, and local planning policies are all material considerations. However, the fact that something is a material consideration does not necessarily mean that it must carry a lot of weight in a final decision.

**MCU – Material Change of Use.** The conversion of a building from one 'use class' to another use e.g. changing from an office to residential use.

**NPPF – National Policy Planning Framework,** the government's planning policy for England.

**PD – permitted development.** PD rights (as outlined in planning law) allow certain building works and changes of use to be carried out without having to make a planning application, subject to certain limitations and conditions.

**Prior approval** – Prior approval refers to conditions attached to some PD applications to ensure developments do not have unacceptable impacts. It refers to a limited set of matters such as building design, appearance, transport and highways impacts, noise, contamination, flooding, or the impact on the amenity of the area, defined in the GPD Order (2015). LPAs cannot determine what is required through the prior approval process, only central government can specify this.

**PPG - the Planning Practice Guidance**, is government guidance about the application of planning policy, bringing together and interpreting the NPPF and a range of other policies, and development orders.

**PRS – private rental sector.**

**Section 106 agreements** – these are planning obligations that are negotiated between local authorities and developers and attached to a planning permission to mitigate against the impact of a development and make a development acceptable which would otherwise be unacceptable in planning terms.

**Use classes** – The Town and Country Planning (Use Classes) Order 1987, as amended, groups common uses of land and buildings into classes e.g. ‘hotels’, ‘dwellinghouses’, ‘general industrial’. Changing a building from one use class to another usually requires planning permission, unless exempted through GPD orders.

**WMS - written ministerial statements.** These statements are released by relevant planning ministers for material consideration when taking decisions about planning applications (and other matters).

# Executive summary

Permitted development rights were introduced in 1947 in England to allow minor extensions to homes and buildings without requiring a planning application. Since 2013 they have been expanded to allow a wide range of buildings (e.g. offices and light industrial warehouses) to be converted into homes and other uses without the need for a planning application (although requiring compliance with some building regulations). The government argued that removing the need for planning applications would increase the number of homes by cutting ‘red tape’. More than 100,000 homes are estimated to have been created through permitted development between 2013 and 2023. 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.<sup>a</sup> Given the known links between the homes people live in and their health<sup>b</sup>, this raises the question of whether allowing the conversion of buildings to residential use through permitted development rather than through the planning system could have detrimental effects on their occupants’ health. This is the question that the research project, to which this report contributes, is investigating<sup>c</sup>.

This report presents a review of national policy, guidance, building and housing regulations in England, how they relate to the quality of housing created through permitted development, and the potential health effects. It is part of a three-year project led by UCL’s Bartlett School of Planning<sup>d</sup>, funded by the National Institute for Health and Care Research (NIHR)<sup>e</sup>.

## Headline findings

The review found that current policies, guidance and regulations are highly complex and inconsistent in what they require regarding homes created through permitted development. 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. The lack of clear and specific requirements regarding the quality of housing created through permitted development creates a risk that regulators and developers might not ensure those vital requirements are addressed.

The assumption that current policy and regulations provide a sufficient ‘safety net’ to ensure that any new home (whether created through permitted development or planning permission) meets basic standards to support health and wellbeing<sup>f</sup> is unfounded.

The review identifies four key concerns about the quality of homes produced through permitted development, and therefore health outcomes. In particular:

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<sup>a</sup> See: ‘Understanding the Impacts of Deregulation in Planning’. Prof Ben Clifford et al. Palgrave Macmillan. 2019; and [These are Homes photobook - Town and Country Planning Association \(2023\)](#)

<sup>b</sup> See: Spatial Planning for Health an Evidence Review. Public Health England. 2017

<sup>c</sup> [The UCL Permitted Development Converted Housing Project \(uclpdhousing.co.uk\)](#)

<sup>d</sup> See: [www.ucl.ac.uk/bartlett/planning/research-projects/2023/nov/ucl-permitted-development-housing-study](http://www.ucl.ac.uk/bartlett/planning/research-projects/2023/nov/ucl-permitted-development-housing-study)

<sup>e</sup> Disclaimer: The views expressed are those of the author(s) and not necessarily those of the NIHR or the Department of Health and Social Care.

<sup>f</sup> See: [Levelling-up and Regeneration Bill - Hansard - UK Parliament](#)

- 1. Planning policies which relate to promoting housing quality do not apply consistently under permitted development.** Permitted development policy was not created to improve the quality of homes but rather increase the number of homes supplied. By avoiding the need to address planning policies to a large extent, homes that are being produced through PD that are not influenced by those policies that seek to shape the quality of the built environment, and thereby health outcomes. The National Planning Policy Framework, National Design Guide and National Model Design Code and local plan policies encourage consideration of a number of built environment ‘determinants of health’<sup>g</sup>. Fundamentally, because homes created through permitted development do not require a full planning application to be submitted and considered by the local planning authority, these strategic national and local policies do not apply.
- 2. Inconsistent application of building regulations for existing buildings converted to residential use.** Building regulations do apply to homes created through permitted development, but the review exposes considerable complexity and gaps regarding exactly which regulations apply. In particular, when existing (non-residential) buildings are converted to dwellings or flats, it is formally called a ‘material change of use’ in building regulation guidance. There is no clarity whether this term applies to buildings changed through permitted development. Furthermore, important building regulations, such as regarding **structural safety** and **inclusion and accessibility**, do not appear to apply to dwellings or flats produced through a ‘material change of use’. This regulatory gap is deeply concerning if structural safety checks have not been carried out, given reports of permitted development conversions where buildings have had additional floors added while residents are still living inside.
- 3. The limited extent of local levers and enforcement to shape the quality of homes from permitted development.** Without mandatory national planning and standards in place, local authorities can only consider a limited set of national regulations to seek to manage better quality outcomes from the homes produced through permitted development. However, there is limited evidence about the uptake and efficacy of the current regulatory levers available to local authorities, such as ‘prior approval’ conditions, section 257 requirements for Homes in Multiple Occupation, and Article 4 directions. It is also unclear whether there are sufficient resources and enforcement mechanisms in place to apply these levers and ensure conditions and directions are being met.
- 4. The current planning and regulatory system for homes created through permitted development fails to adequately protect and support people’s health for 11 out of 12 of the Healthy Homes Principles.** This paper looks in detail at specific policies and regulations that relate to 12 evidence-based Healthy Homes Principles<sup>h</sup> devised by the TCPA. It adopts the principles as a review framework to consider how permitted development might affect the scope of those policies. It finds that only one of the principles, the provision of liveable space, is adequately protected under permitted development rights:

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<sup>g</sup> See: [Understanding how to create healthier places: A qualitative study exploring the complex system of urban development decision-making - ScienceDirect](#)

<sup>h</sup> See: [www.tcpa.org.uk/resources/healthy-homes-principles](http://www.tcpa.org.uk/resources/healthy-homes-principles)

Healthy Homes principle	Do policies and regulations clearly address PD dwellings regarding delivery of the principle?		
	Unclear	Partially addressed	Clearly addressed
Fire safety		Partially addressed	
Liveable space			Clearly addressed
Inclusive, accessible, adaptable	Unclear		
Access to natural light		Partially addressed	
Access to amenities, transport and nature	Unclear		
Reductions in carbon emissions		Partially addressed	
Safety from crime	Unclear		
Climate resilient		Partially addressed	
Prevent air pollution		Partially addressed	
Limit light pollution	Unclear		
Limit noise pollution		Partially addressed	
Thermal comfort	Unclear		
Affordable housing	Unclear		

(Chart from page 49 of the full review)

### Further changes to permitted development?

At the time of publication of this report (February 2024), the government announced an immediate extension to permitted development rights to allow commercial buildings of any size to be converted to homes, and a consultation regarding further changes to permitted development<sup>i</sup>.

### Next steps

This research will inform the wider research project, ‘Investigating the Potential Health Impacts of Planning Deregulation: the case of permitted development in England’.<sup>j</sup> It has highlighted national policy and regulatory gaps, as well as the limited range of policy levers that local authorities can use to try to manage the quality of homes produced through permitted development. However, this desk-based research into policy and regulations does not tell us anything about the quality of the homes actually being created through permitted development. This will be investigated by academic researchers as part of the wider research project. In addition, during 2024, the TCPA will consult local authorities and other public bodies across England to better understand their experiences of seeking to manage the location and quality of PD residential conversions. We invite any authority that would like to support this research to contact us.

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<sup>i</sup> [Build on brownfield now, Gove tells underperforming councils](https://www.gov.uk/government/news/build-on-brownfield-now-gove-tells-underperforming-councils) - GOV.UK ([www.gov.uk](https://www.gov.uk))

<sup>j</sup> See: <https://www.uclpdhousing.co.uk>

# 1 Introduction

This report is part of a three-year project led by UCL's Bartlett School of Planning, 'Investigating the Potential Health Impacts of Planning Deregulation: the case of permitted development in England', funded by the National Institute for Health and Care Research (NIHR).

The review aims to identify and assess national and local policy levers that relate to the health and health inequality effects of housing created through permitted development (PD) in England. This will inform a wider policy debate about whether deregulating urban planning through PD supports healthier living.

It seeks to address the following questions:

1. What policy levers can policy makers use at different scales to ensure that new developments support residents' health, and how has the introduction of PD for residential conversion impacted the effectiveness of these levers?
2. How are policy makers adjusting the way they regulate the quality of homes following the expansion of PD?
3. Given the expansion of PD, what are the most effective policy levers policy makers can use to ensure that new developments support residents' health?

The main purpose of this study is to address the first question, although it will consider evidence relating to the second and third questions. It does not seek to be a systematic literature review; however the review aims to collate and examine public documentation regarding how planning policy, housing, and building regulations have changed over time and identify national and local policy levers relating to health protection and promotion in housing created through PD. The findings from this paper will also be used to support the work of the other project partners and provide the policy background for future project outputs.

The rest of this report is structured into four sections. Chapter 2 explains what permitted development is and sets out the scope, detail and timing of changes to PD rules since 2013. It also summarises the regulatory levers available to local authorities to try and shape the quality and location of PD conversion, given that it is outside the usual planning application process. Chapter 3 provides an overview of national planning policy relating to the quality of homes and building regulations and standards. Chapter 4 examines housing quality requirements in planning policy and regulations in more detail regarding twelve Healthy Homes Principles developed by TCPA. It considers whether and how permitted development policies might affect those requirements. Chapter 5 provides an overview of main findings and sets out next steps for the research.

## 2 Permitted development: background, timeline and key policy changes

This chapter explains what permitted development (PD) is; how it has changed since 2013; and provides a timeline showing when each change happened. It also summarises the policy levers available to local authorities to try to shape the quality and location of PD conversions.

### 2.1 Background – a deregulatory context

Permitted development (PD) was originally intended to have a very limited scope – as a means to give planning consent for the minor modification, extension, conversion or emergency works on an existing building. Such works would not require a planning application, where such minor changes would have limited bearing on wider public interest. It has been possible to undertake this form of PD work since the statutory planning system was established, under the Town and Country Planning Act 1947, which came into effect on 1 July 1948. The 1947 Act gave planning permission for all pre-existing buildings and their uses, and set out planning permission requirements for any new development. The Act also introduced the concept of general development orders (GDOs), later replaced by general permitted development orders (GPDOs), that granted permission for certain types of development without the need for planning application, such as loft, garage or basement conversions, or building a small rear extension or a porch less than 3m<sup>2</sup>.

In 1985 a White Paper, 'Lifting the burden', expressed a political shift towards deregulation which has continued in recent decades. Along with this came a growing tendency to blame planning and regulations for impeding economic growth and development (1–3). Since 2012, there have been several legislative changes and written ministerial statements (WMS)<sup>k</sup> about extending the scope of permitted development (PD) rights that aligned with this view. In 2013, the planning minister, Nick Boles described proposals to extend PD as an attempt to cut through planning 'red tape' (4), to help increase the supply of housing. The proposal, to allow the conversion of certain classes of building without requiring a planning application process, essentially removes opportunities to ensure locally-led, discretionary and democratic decision-making about the location and quality of development that takes place in an area (5,6).

The Conservative government has suggested that planning prevents the creation of enough homes to meet its housing target of 300,000 new homes every year (7,8,4). It has stated that the changes to PD rules have been introduced to try and address that housing supply gap. However, in practice, planning permission has been granted for over 300,000 new homes every year since 2010 (9). Despite complexity in the planning system, the housing crisis cannot be solely blamed on the planning system: homes with planning permission are taking too long to be built, and what is being produced is not reliably of a decent standard (10,11).

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<sup>k</sup> Appendix 2 outlines some of the key WMS relating to PD rights.

It is important to note in the context of this review that ensuring that the quality of PD conversions was good enough to support people's health and wellbeing was never a stated aim of PD rules: As the TCPA publication *'Planning 2020: One Year On'* commented:

*'The argument for deregulating planning was to simplify and unleash the market to transform housing supply. In fact the results on supply are at best marginal, while quality and affordability have declined.'* (8)

## 2.2 Changes to permitted development rights

The following section outlines the scope and detail of some of the changes in the last ten years and provides a timeline for those changes.

### 2.2.1 Three-year trial expanding the scope of PD (2013-2016)

The Coalition government proposed changes to PD rights in England to allow the change of use of office buildings into residential use without requiring a formal planning application (12,13). The 2013 permitted development three-year pilot scheme was introduced, from 30 May 2013 to 30 May 2016. However, the pilot was made permanent in 2015 through a new general permitted development order (GPDO)<sup>1</sup>.

The pilot aimed to address the shortage of homes which was starting to make headline news, putting the government under increasing pressure. The government's housing supply data indicates that the three-year pilot resulted in 6,600 approvals for PD dwellings between April 2014 and June 2015 (14). The pilot was reported to contribute to an increase in housing numbers. However, negative impacts were also identified, including the loss of employment space, poor quality and design in some conversions, reduced affordable housing and infrastructure contributions, and variation in the implementation and outcomes of the pilot across different areas (15).

### 2.2.2 Formal extension of PD rights (2015)

The changes introduced temporarily in the pilot scheme were made permanent under the Town and Country Planning (General Permitted Development) (England) Order 2015 – (GPDO)(16). Under schedule 2, part 3 of the 2015 order, key provisions were outlined regarding permitted change of use from particular classes of non-residential buildings to residential dwellings. Planning permission was no longer needed for changes in use of buildings *within* specific 'subclasses' of building uses, and for certain changes of use *between* some of the use classes, including offices and light-industrial buildings (17). The Order also set out 'article 4' circumstances and procedures where a local planning authority (LPA) may remove specified PD rights in part of its area (18).

**Table 1** outlines those classes of building uses permitted to be changed to residential use. The table also outlines examples of specific instances when PD is not allowed for each building class. Exclusions include certain time and size thresholds, such as the building heights and area of floor space that are allowed to be converted, broadly to limit change of use in larger buildings. There are also threshold dates regarding when a building was formally classified under a particular use.

<sup>1</sup> The pilot was conducted by amending the Town and Country Planning (General Permitted Development) Order 1995 to create a new Class J in Part 3 of Schedule 2, which permitted the change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of that Schedule, subject to certain limitations and conditions: [Microsoft Word - ukxi\\_20131101\\_en.doc \(legislation.gov.uk\)](#)

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For most of these building subclasses, the GPDO outlines a limited number of conditions where PD cannot be applied in particular protected areas and contexts<sup>m</sup>. The 2015 GPDO has since been amended several times.

According to the 2015 GPDO, developers may have to apply to the relevant LPA to ask if they need ‘prior approval’ in relation to various conditions before they can change the use of the building. These prior approval conditions are specific to each class of building, covering topics such as transport impact, flood risk, and design quality, as indicated in **Table 1**. While these conditions, if applied, may have a bearing on the health impacts of the PD conversion, they are much more limited than the local development policies which a full planning application would need to consider.

The implementation of prior approval is further complicated by the fact that the applicable conditions vary for different use classes of buildings. Developers are *not* required to seek approval about the **design impacts** or **external appearance** of converting the building in the following use classes: offices (Class O); commercial buildings (Class MA/E); storage or distribution centres (Class P); or light industrial buildings (Class PA) to residential. The potential **air quality** impact to residents in a PD conversion only applies as a prior approval condition for the conversion of storage or distribution centres (Class P). Only commercial buildings (Classes MA / E, N and Q) have to seek approval regarding the provision of **adequate natural light** in all habitable rooms of the dwelling houses; or regarding the **impacts of noise** from commercial premises on the intended occupiers.

Prior approval conditions are further limited by the fact that if an LPA is not able to determine if the conditions are met within 56 days then the development is deemed to have received consent. This is the opposite approach from a planning application, which requires consent to be given before development can proceed.

‘Article 4’ of the 2015 GPDO gives LPAs the opportunity to indicate specific geographical areas where PD cannot be applied. However, in 2020, the National Planning Policy Framework was revised to limit the scale of PD-free areas, saying that they cannot cover an entire authority area.

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<sup>m</sup> Protected areas excluded from PD include: an area of outstanding natural beauty; an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981; the Broads; a National Park; or a World Heritage Site; a site of special scientific interest (SSSI); a safety hazard area; a military explosives storage area; the building is a listed building or is within the curtilage of a listed building; or a site or contains a scheduled monument.

**Table 1. Classes of buildings within the scope of permitted development for conversion to residential use under the Town and Country (General Permitted Development) (England) Order 2015 and further amendments**

Building class	Permitted development	Size and time-based thresholds when PD is not permitted	Scope of prior approval conditions (conditions in bold relate to Healthy Homes principles)
<b>Class L – small HMOs to dwellinghouses and vice versa</b>	<ul style="list-style-type: none"> <li>Houses in Multiple Occupation</li> </ul>	<ul style="list-style-type: none"> <li>If it would result in use 'as two or more separate dwellinghouses falling within Class C3 (dwellinghouses)'</li> </ul>	None
<b>Class M – certain uses to dwellinghouses</b>	<ul style="list-style-type: none"> <li>Launderettes</li> <li>Betting offices</li> <li>Pay day loan shops</li> <li>Hot food takeaways</li> <li>Mixed-use, combining residential with one Class M use</li> </ul>	<ul style="list-style-type: none"> <li>If the building was not used for one of the uses referred to in Class M(a) on <b>20th March 2013</b></li> <li>If the cumulative floor space of the existing building changing use under Class M <b>exceeds 150m<sup>2</sup></b></li> <li>the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building...</li> </ul>	<ul style="list-style-type: none"> <li>(a) transport and highways impacts of the development,</li> <li>(b) contamination risks in relation to the building,</li> <li>(c) flooding risks in relation to the building,</li> <li>(d) whether it is undesirable for the building to change to a use... because of the impact on <ul style="list-style-type: none"> <li>(i) adequate provision of services (shops and financial services) ...</li> <li>(ii) the sustainability of a shopping area,</li> </ul> </li> <li>(e) the design or external appearance of the building</li> </ul>
<b>Class MA – commercial, business and service uses to dwellinghouses</b> (PD applied to this class since 2021)	Class E buildings: <ul style="list-style-type: none"> <li>Financial, professional or betting offices</li> <li>Pay day loan shop</li> </ul>	<ul style="list-style-type: none"> <li>unless the building has been <b>vacant for a continuous period of at least 3 months</b> immediately prior to the date of the application for prior approval;</li> <li>if the cumulative floor space of the existing building changing use under <b>Class MA exceeds 1,500 m<sup>2</sup></b>;</li> </ul>	<ul style="list-style-type: none"> <li>a) transport impacts of the development, particularly to ensure safe site access;</li> <li>(b) contamination risks in relation to the building;</li> <li>(c) flooding risks in relation to the building;</li> <li>(d) impacts of noise from commercial premises on the intended occupiers ...;</li> <li>(e) where— <ul style="list-style-type: none"> <li>(i) the building is located in a conservation area, and</li> <li>(ii) the impact of that change of use on the character or sustainability of the conservation area;</li> </ul> </li> <li>(f) the provision of adequate natural light in all habitable rooms of the dwelling houses* (<i>amended in 2020</i>)</li> <li>(g) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses; and</li> <li>(h) where the development involves the loss of services provided by— <ul style="list-style-type: none"> <li>(i) a registered nursery, or</li> <li>(ii) a health centre maintained under section 2 or 3 of the National Health Service Act 2006(2)...</li> </ul> </li> </ul>
<b>Class N – specified sui generis uses to dwellinghouses</b>	<ul style="list-style-type: none"> <li>Amusement arcade or centres</li> <li>Casinos</li> </ul>	<ul style="list-style-type: none"> <li>If the building was not used solely for one of the uses specified in Class N on <b>19th March 2014</b>,</li> <li>If the cumulative floor space of the existing building changing use under Class N exceeds <b>150m<sup>2</sup></b>;</li> <li>(c) the development would result in <b>more than 150m<sup>2</sup></b> of floor space in the building having changed use under Class N;</li> </ul>	<ul style="list-style-type: none"> <li>(a) transport and highways impacts of the development,</li> <li>(b) contamination risks in relation to the building,</li> <li>(c) flooding risks in relation to the building, and</li> <li>(d) the design or external appearance of the building</li> <li>(e) the provision of adequate natural light in all habitable rooms of the Dwellinghouses (<i>amended in 2020</i>)</li> </ul>

<b>Class O – offices to dwellinghouses</b>	<ul style="list-style-type: none"> <li>Offices</li> </ul>	<ul style="list-style-type: none"> <li>If the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order on <b>29th May 2013</b></li> </ul>	<ul style="list-style-type: none"> <li>(a) transport and highways impacts of the development;</li> <li>(b) contamination risks on the site; and</li> <li>(c) flooding risks on the site,</li> </ul>
<b>Class P – storage or distribution centres to dwellinghouses</b>	<ul style="list-style-type: none"> <li>Storage warehouses</li> <li>Distribution Centres</li> </ul>	<ul style="list-style-type: none"> <li>If the building was not used solely for a storage or distribution centre use on <b>19th March 2014</b></li> <li>If the <b>prior approval date falls on or after 10th June 2019</b>; (2018 amendment)</li> </ul>	<ul style="list-style-type: none"> <li>(i) impacts of air quality on the intended occupiers of the development;</li> <li>(ii) transport and highways impacts of the development,</li> <li>(iii) contamination risks in relation to the building,</li> <li>(iv) flooding risks in relation to the building,</li> <li>(v) noise impacts of the development, and</li> <li>(vi) ... whether the introduction of, or an increase in, a residential use of premises in the area would have an adverse impact on the sustainability of the provision of those [industrial or distribution] services,</li> </ul>
<b>Class PA – premises in light industrial use to dwelling-houses</b> (PD applied from 2017-2020, then applied under Class MA in 2021)	<ul style="list-style-type: none"> <li>Light industrial uses (including agricultural uses)</li> </ul>	<ul style="list-style-type: none"> <li>If the building was not used solely for a light industrial use on <b>19th March 2014</b></li> <li>If the prior approval date falls on or after <b>1st October 2020</b>;</li> <li>If the gross floor space of the existing building <b>exceeds 500 m<sup>2</sup></b>;</li> <li>If the site is occupied under an agricultural tenancy, unless express consent of both landlord and tenant has been obtained</li> </ul>	<ul style="list-style-type: none"> <li>(i) transport and highways impacts of the development,</li> <li>(ii) contamination risks in relation to the building,</li> <li>(iii) flooding risks in relation to the building,</li> <li>(iv) ...whether the introduction of, or an increase in, a residential use of premises in the area would have an adverse impact on the sustainability of the provision of those [services or storage or distribution] services,</li> </ul>
<b>Class Q – Agricultural</b> (PD applied in 2015 and increased in size in 2018)	<ul style="list-style-type: none"> <li>Barns</li> <li>Agricultural buildings</li> </ul>	<ul style="list-style-type: none"> <li>The site must have been used solely for an agricultural use on <b>20 March 2013</b></li> <li>A maximum number for the following types of houses are permitted: <ul style="list-style-type: none"> <li>up to 3 larger homes, to be greater than 100m<sup>2</sup>, and within an overall floorspace of <b>465m<sup>2</sup></b>; or</li> <li>up to 5 smaller homes, each no greater than <b>100m<sup>2</sup></b>; or</li> <li>up to 5 large or small homes, not exceeding the thresholds for each type of home.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>(a) transport and highways impacts of the development,</li> <li>(b) noise impacts of the development,</li> <li>(c) contamination risks on the site,</li> <li>(d) flooding risks on the site,</li> <li>(e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change..</li> <li>(f) the design or external appearance of the building,</li> <li>(g) the provision of adequate natural light in all habitable rooms of the Dwellinghouses (<i>amended in 2020</i>)</li> </ul>

### 2.2.3 PD revisions to building class, natural light, and space standards (2020 and 21)

Concerns were raised in the aftermath of the 2013 pilot and 2015 GPD Order, including from the national press, charities, planning bodies and local government (19,20). A review of 639 PD buildings across 11 LPAs was conducted for the government in 2020 (21). The review found a ‘nuanced’ picture. Some aspects, like energy performance, compared fairly similarly between schemes allowed under PDR and those allowed through planning permission. However, more variation in the quality of housing produced was identified depending on the scale and location of buildings created through PD. Buildings on commercial areas like business parks and industrial estates tended to be of lower quality. Larger PD conversions were reported to be of lower quality than smaller buildings, particularly in terms of poor provision of internal space, lack of access to natural light and lack of access to amenities space. For example, 80 flats with no amenity space (balconies, green space) is likely to be more problematic for residents than five flats - as the pressure on any existing nearby open space becomes greater. Larger groups of people in poorer quality accommodation was also reported to be subject to an increased risk of anti-social behaviour (5,21).

A separate systematic review examined how PD is reported to affect the relationship between housing and health. It found a number of examples where ‘permitted development conversions have negative compared to positive health impacts, and may contribute towards widening health inequalities.’ (Marsh et al, 2020)(7). This includes issues around the poor location of PD in non-residential areas such as along main artery roads and in industrial estates, as well as the lack of safe places for children to play outside, excessive cold and heat in poorly insulated flats, problems around privacy and security, poor access to natural light, fire safety concerns, as well as how such factors increase stress and anxiety due to living in poor surroundings.

In response to some of these concerns, amendments were made in 2020 to the GPD order 2015 to allow prior approval conditions to consider access to **natural light** in all habitable rooms for conversions of certain classes of buildings to residential use (notably M,N,O. PA and Q)<sup>n</sup>. Under procedures for prior approval the amendment states:

*‘9) Where the application relates to prior approval as to natural light, the local planning authority must refuse prior approval if adequate natural light is not provided in all the habitable rooms of the dwellinghouses’ (22)*

Another amendment regarding **internal space** provisions was introduced that same year which meant PD conversion or development would not be granted or authorised if the gross floor area of the dwelling was less than 37 square meters, and did not comply with Nationally Described Space Standards (23) (see section 4.2.2 for further details).

The GPD Order 2021 introduced a new size limit on the size of Class MA buildings that could be converted (setting a 1,500 square metres floorspace limit). The range of buildings included in the scope of PD conversion was also expanded in 2021 to include the conversion of ‘Class E’ buildings (i.e. buildings with commercial uses, such as offices, shops, restaurants, cafes, health services, nurseries, gyms and leisure uses)<sup>o</sup> (24). A review of four areas in England (Barnet, Crawley, Huntingdonshire, and Leicester) found that 80.3% of shops and other commercial buildings could be lost to residential conversion (25). Various groups, including the Local Government Association (LGA) raised concerns about this change, noting it could have unintended and irreversible consequences. For example, when making a planning application,

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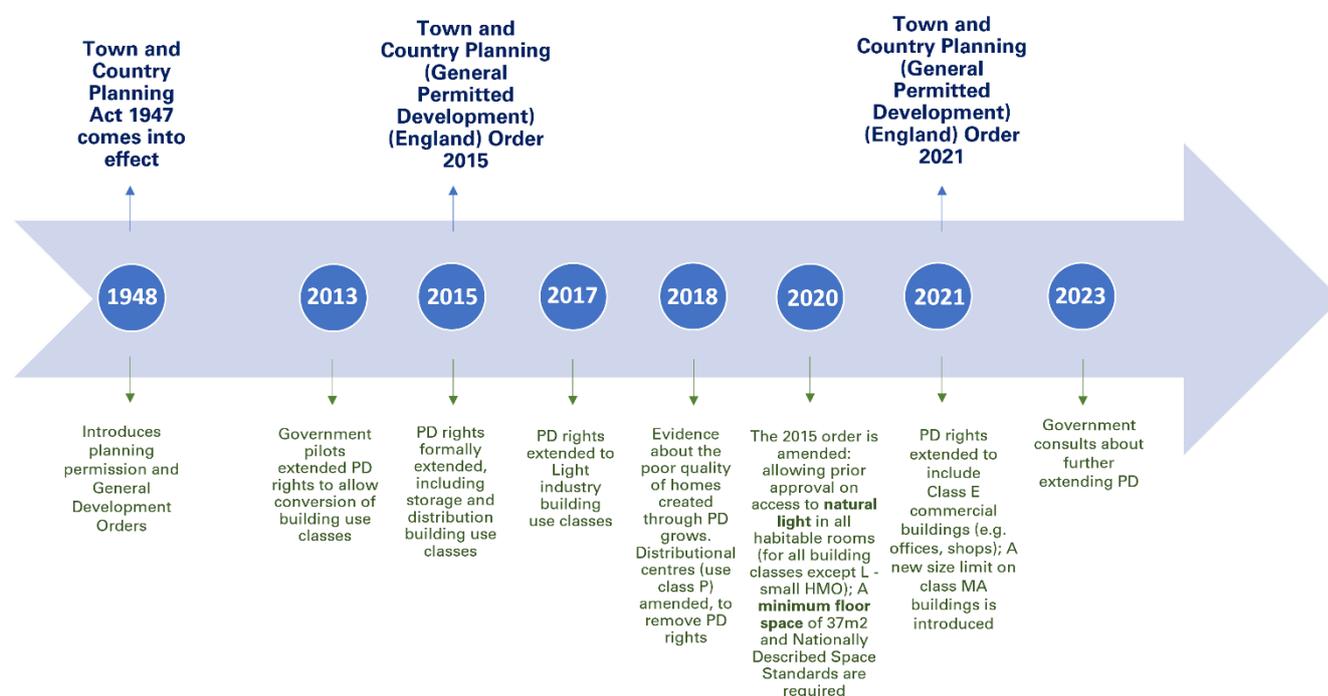
<sup>o</sup> Class MA buildings: Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service).

developers are expected to set out how they will contribute financially towards local amenities and affordable housing to support and mitigate the impact of a development to local communities. These developer contributions are made through planning mechanisms called ‘community infrastructure levy’ and ‘section 106 agreements’ (26). As PD does not require the normal planning procedures, the LGA argued that the policy was ‘*undermining local growth strategies and depriving local authorities of developer contributions*’ (19).

#### 2.2.4 Proposals to further extend PD rights (2023)

Further changes to PD rights were proposed by Housing and Levelling Up Secretary of State, Michael Gove in September 2023 and were put out for public consultation (27). The proposals included extending or removing the threshold on the size of buildings so that larger buildings can be considered for PD conversion, to include class E hotels, department stores and buildings, which is currently set at a size limit of 1500sqm. Later in November 2023, Gove also proposed additional relaxation of PD rules to allow larger buildings, and additional uses classes (e.g. hotels) to be converted to flats<sup>p</sup>.

A summary of the key changes in policy over time is highlighted in **Figure 1**.



**Figure 1. Timeline of key changes for converting buildings to residential use under permitted development**

### 2.3 Local government levers to influence PD

By avoiding the need for planning application, conversion of buildings to housing use through PD means that local authorities are not able to apply locally defined planning policies and requirements, as outlined in their local development plan and supplementary planning documents. This leaves a limited range of regulatory powers that local authorities can adopt to seek to manage the quality of housing created through PD. These include: ‘article 4 directions’;

<sup>p</sup> Written statements - Written questions, answers and statements - UK Parliament

prior approval conditions; and section 257 of the Housing Act 2004 regarding the management and licencing of housing of multiple occupation (HMOs).

### 2.3.1 Article 4 directions

PD rights can be constrained or removed by LPAs, by means of an ‘article 4’ direction, as referred to in the TCP GPD Order, 2015 (28) and under the National Planning Policy Framework (NPPF), which sets out the government’s planning policies for England (see section 4). The 2021 NPPF added new requirements on ‘article 4 directions’ to constrain how they are used by LPAs. The NPPF states that article 4 directions should be *‘limited to situations [...] which could include the loss of the essential core of a primary shopping area’* and in all cases, their application must be *‘based on robust evidence, and apply to the smallest geographical area possible’*(29). The Institute of Place Management (Manchester Metropolitan University) raised concerns that these constraints could ‘undermine the ability [of LPAs] to deliver a co-ordinated approach’ to place making, where the proposed reforms would allow ground-floor retail premises to be converted to residential and impede the ability of an LPA to plan and shape their high streets (30).

A review of application of article 4 directions in Manchester City found it had ‘enabled the City Council to protect employment sites still ensuring that a balanced portfolio of development has been delivered’(31). Anecdotally, at a meeting of London housing and public health officers (October 2023) some London boroughs, e.g. London Borough of Richmond, reported that article 4 designations had helped to manage the impact of PD conversions on their local high streets. At the same meeting others indicated they had been less proactive adopting article 4 in seeking to limit where PD takes place. It would be helpful to understand why and how some LPAs are using this power more than others.

### 2.3.2 Prior approval conditions

LPAs can also apply prior approval conditions regarding particular aspects that relate to the quality of permitted development. LPAs cannot determine what is required through the prior approval process, only central government can specify this however (32). As outlined in Table 1, the GDPO 2015 outlines the limited scope of the conditions that can be included in prior approvals. Such conditions also vary according to different classes of building. Again, there is little evidence available about the degree to which these prior approval conditions are being applied and enforced by LPAs and further research is required to examine this.

### 2.3.3 Section 257 of the Housing Act 2004

A third mechanism relates to where PD creates houses in multiple occupation (HMOs) which can then be subject to requirements under section 257 of the Housing Act 2004 (33). Local authorities can use the Act and section 257 to apply licencing fees and management requirements on landlords managing HMO properties produced through PD. It is unclear however how widely and effectively this approach is used in relation to improving the quality of HMOs produced under PD rights. This will require further research to examine how widely it is applied.

# 3 Overview of national policies and regulations relating to housing and health

## 3.1 Background

This chapter outlines national policies, guidance and regulations that relate to housing and health. The aim is to map out the broad policy and regulatory context to better understand the implications of the changes in PD requirements. It should be noted it is not possible to cover all relevant policies and regulations in this review but aims to present the main policies that have a clear bearing on housing quality and health standards. This section covers:

- i) National planning policy and guidance
- ii) Building regulations and housing wider regulations

## 3.2 National planning policy and guidance

It is not possible to cover all the potentially relevant housing and health policies and legislation in this review; this section provides an overview of some key national policies, guidance and regulations that are taken into account in local planning decisions about the quality and location of homes, that can directly and indirectly impact population health. In particular, we examine national policy and guidance: the National Planning Policy Framework, National Design Code and National Model Design Code; Planning Practice Guidance; and written ministerial statements.

For most forms of development, the developer must submit a planning application to the local planning authority (LPA). The application will be considered by the planning committee, a committee of councillors. Before giving consent to a planning application, the planning committee will take account of various national policies, including the National Planning Policy Framework (NPPF), national Planning Practice Guidance (PPG), and relevant written ministerial statements, in addition to local planning policies. These policies should be ‘taken into account’ but the interpretation and weight given to them can vary according to the discretion of the planning committee – i.e. these policies are not mandatory. Under the ‘discretionary’ decision-making process at the heart of English planning, the committee has to take into account the circumstances of each case and consistency with the development plan (34), and weigh up proposals against an array of policy requirements and political factors when deciding whether to give planning consent. This means such national and local policies are not mandatory, as the planning committee may choose not to prioritise particular policies if other factors are deemed to outweigh them (35).

The main difference between the usual process of getting planning permission and the permitted development process, is that with permitted development the developer avoids all of these national and local policy considerations. They only need to ask the LPA if they should seek prior approval for a very limited number of specific conditions (as outlined in Table 1). This

means that key policies that promote key determinants of health are entirely missed by development proposals under PD.

### 3.2.1 The National Planning Policy Framework (NPPF)

The National Planning Policy Framework (NPPF) sets out the government's planning policy for England and how it should be applied. It provides a framework to shape how locally-prepared plans for housing and other development should be produced (36). The NPPF has been revised and amended several times since it was first produced in 2012, and then updated and revised in 2018, 2019, 2021, and 2023. In terms of health policies and approach, the NPPF states that the purpose of planning is 'sustainable development' with three 'overarching' objectives: environmental, social and economic. The social objective indicates that planning should 'support strong, vibrant and healthy communities' – and goes on to state this would be achieved by ensuring a 'sufficient number and range of homes' but contains no reference to the quality of those homes in that objective (37). NPPF chapter 8 on healthy communities indicates that planning decisions 'should' take into account the health and wellbeing of local people. Chapter 13 focuses on plan-making and local plan strategic priorities, where an LPA area should aim to deliver 'the provision of health, security, community and cultural infrastructure and other local facilities'(38). In 2021, the National Model Design Code was introduced, with a recommendation that LPAs produce a design code for their areas to encourage new developments that are high quality and well-designed (39).

A central concern about the NPPF in relation to health is that while it includes various recommendations regarding features of the built environment that are evidenced as 'determinants of health', these recommendations are neither comprehensive nor mandatory. There is no overarching mandatory requirement for planning decisions in relation to the built environment to contribute towards the promotion of population health, or for planning decisions to be informed by local health evidence and priorities (35,36). In addition, there is no statutory requirement for public health officials or the Office of Health Improvement and Disparities (OHID) to be consulted in planning application decisions (37).

### 3.2.2 Planning Practice Guidance

The Planning Practice Guidance (PPG) elaborates on particular policy recommendations in the NPPF about planning obligations(40) (such as regarding noise pollution, protecting the natural environment, waste management, design) and provides further explanation about how those recommendations should be applied. It provides guidance regarding the application of 'material considerations' through the planning process and therefore its advice does not generally apply to residential dwellings created through PD, unless the PPG indicates prior approvals can be applied to address a particular policy (such as regarding noise management, flood risk, and land affected by contamination).

### 3.2.3 Written ministerial statements

Written ministerial statements (WMS) are government announcements from ministers regarding policy changes and the interpretation of policy, and they can include changes regarding planning policy requirements. Various WMS have been made which set out changes to the scope of PD rights. For example, in 2021 Robert Jenrick made a WMS limiting the scope of article 4 directions, stating: 'Article 4 directions should be very carefully targeted, applying only to those locations where they are necessary to avoid wholly unacceptable adverse impacts.' (41) (see also Appendix 2).

### 3.3 Building regulations and wider housing and health provisions

The following section provides an overview of the Building Regulations 2010 ‘approved documents’, the Decent Homes Standard, and various relevant housing and public health acts. It goes on to consider some of the general challenges reported to be faced by building regulations.

#### 3.3.1 Building regulations

All development, whether it is the result of a planning application or permitted development, must comply with building regulations. However, as this section sets out, the way that the regulations apply to different types of permitted development is complex and confusing.

The **Building Act 1984** (for England and previously Wales) outlines specific requirements regarding how different aspects of building design and construction will be regulated to protect people’s health, safety and welfare, as well as how the regulations will be enforced. A developer must seek approval for meeting building regulations either through local authority building control officers or by ‘approved inspectors’ who have been certified by CICAIR (the government appointed certifier). The regulations have been updated and rewritten periodically, most recently in Building Regulations 2016. They cover a series of ‘approved documents’ regarding specific topics such as structural safety (approved document A) and fire safety (approved document B), see **Figure 2** (42). Building regulations apply to new construction work, and do not require existing buildings to be brought up to standard unless new work is being carried out, such as alterations, extensions, loft conversions, window replacement, insulation.

Dwellings		Other buildings	
New	Existing <sup>1</sup>	New	Existing <sup>1</sup>
A: Structure			
B: Fire safety, Volume 1: Dwellings		B: Fire safety, Volume 2: Buildings other than dwellings	
C: Site preparation and resistance to contaminants and moisture			
D: Toxic substances			
E: Resistance to the passage of sound			
F: Ventilation			
G: Sanitation, hot water safety and water efficiency			
H: Drainage and waste disposal			
J: Combustion appliances and fuel storage systems			
K: Protection from falling, collision and impact			
L: Conservation of fuel and power L1A New dwellings	L: Conservation of fuel and power L1B Existing dwellings	L: Conservation of fuel and power L2A New buildings other than dwellings	L: Conservation of fuel and power L2B Existing buildings other than dwellings
M: Access to and use of buildings Volume 1: Dwellings		M: Access to and use of buildings Volume 2: Buildings other than dwellings	
P: Electrical safety – dwellings <sup>2</sup>		P: No approved document	
Q: Security – dwellings	Q: No requirement	Q: No requirement	
R: Physical infrastructure for high-speed electronic communications networks			

#### NOTES:

1. The requirements that apply to material changes of use are covered in Table A2 in Volume 2.
2. Approved Document P provides guidance for other buildings if the supply is shared with a dwelling.

**Figure 2. List of building regulation ‘approved documents’ and what they cover** (DLUHC, 2020, p10)

The government guidance says that building regulations do apply if there is a ‘material change of use’ (MCU) to an existing building to become dwellings or flats but this varies for different regulations (See Table 2). Particularly concerning is the lack of requirement for new dwellings and flats (under MCU) to apply structural regulations (Approved Documents A1-A3). The TCPA has had credible reports of additional floors being added to PD buildings while residents were still living inside, which is deeply concerning if structural safety checks have not been carried out. Similarly, the regulation to ensure ‘visitable dwellings’ for disabled and older people (Approved Document M1) does not apply when there is a change to a dwelling or flat. Confusingly the regulation regarding ‘resistance to moisture’ (Approved document C2) regarding reducing the risk of mould and damp, does not apply to flats but does apply to dwellings. Furthermore, existing buildings changed to dwellings and flats do not need to meet the regulation regarding protection from risk of ‘falling, collision or impact’ in and around a building (Approved Document K) (see Table 2 and section 4.3). In the current guidance there is no clarity about whether the definition of MCU specifically refers to buildings changed through PD in relation to the application of building regulations. There may also be circumstances where it is not practically possible to for a converted building to comply with all the requirements. For example, it may not be feasible to meet required levels of air-tightness in a historic building (43).

**Table 2. Building regulations as applied to ‘material change of use’ to dwellings and flats**

Building regulation	Building regulation relates to change of use to:		
	Dwellings 5(a)	Flats 5(b)	Building contains a room for residential purposes, where previously it did not 5(h)
<b>A1-A3 (Structure)*</b>	-	-	-
B1 (Fire instructions and escape)	Y	Y	Y
B2 (Internal fire – linings)	Y	Y	Y
B3 (Internal fire – structure)	Y	Y	Y
B4 (1) (External walls) <sup>1</sup>	Y	Y	Y
B4(2) (External roofs)	Y	Y	Y
B5 (access for emergency vehicles)	Y	Y	Y
Reg 6(3)	-	-	-
C1(2) (Contaminated site preparation)	Y	Y	Y
<b>C2 (Resistance to moisture)*</b>	Y <sup>2</sup>	-	-
E1-E3 (Passage of sound)	Y	Y	Y
F1 (Ventilation)	Y	Y	Y
G1 (Cold water supply)	Y	Y	Y
G2 (Water efficiency)	Y	Y	-
G3(1-3) Hot water supply	Y	Y	Y
G3(4) (Sink in food areas)	Y	Y	-
G4 (Sanitary and waste facilities)	Y	Y	Y
G5 (Bathroom)	Y	Y	Y
G6 (Kitchen and food areas)	Y	Y	Y
H1 (Foul water drainage)	Y	Y	Y
H6 (Solid water drainage)	Y	Y	Y
J1-J4 (Combustion appliances & fuel storage systems)	Y	Y	Y
<b>K1-K6 (Protection from falling, collision and impact)*</b>	-	-	-
L1 (Conservation of fuel and power)	Y	Y	Y
<b>M1 (Access: visitable dwellings) *</b>	-	-	-
P1 (Electrical safety) <sup>3</sup>	Y	Y	Y
Q1 (Security)	Y	Y	-

Notes: 1. B4(1) applies to buildings over 15m high; 2. Applies to the whole building, not just the residential parts; 3. P1 applies in all cases if the electricity supply is shared with a dwelling.

\*highlighted sections indicate gaps in regulations regarding material change of use.

Various reactive changes to building regulations have occurred in response to major incidents, such as the Grenfell Tower fire in 2017, when a 24-story tower block in west London caught fire and 72 residents died. Dame Judith Hackitt led an independent review of fire safety and building regulations and raised serious concerns about the enforcement of regulations and construction safety measures. This included the use of combustible materials by developers to clad buildings; construction product manufacturers ignoring safety rules, gaming the system and rigging the results of safety tests; building owners failing to take responsibility for ensuring the safety of their residents; and the government's regulatory system lacking the strength and oversight to identify these failings and enforce standards (44). The event was associated with flammable exterior cladding and failures in fire emergency responses but it also highlighted health inequalities regarding housing typology, quality and safety. According to the English Housing Survey 2017, 40% of people living in high rise social housing were from BAME communities, and 57 of the deaths at Grenfell were from those communities (45).

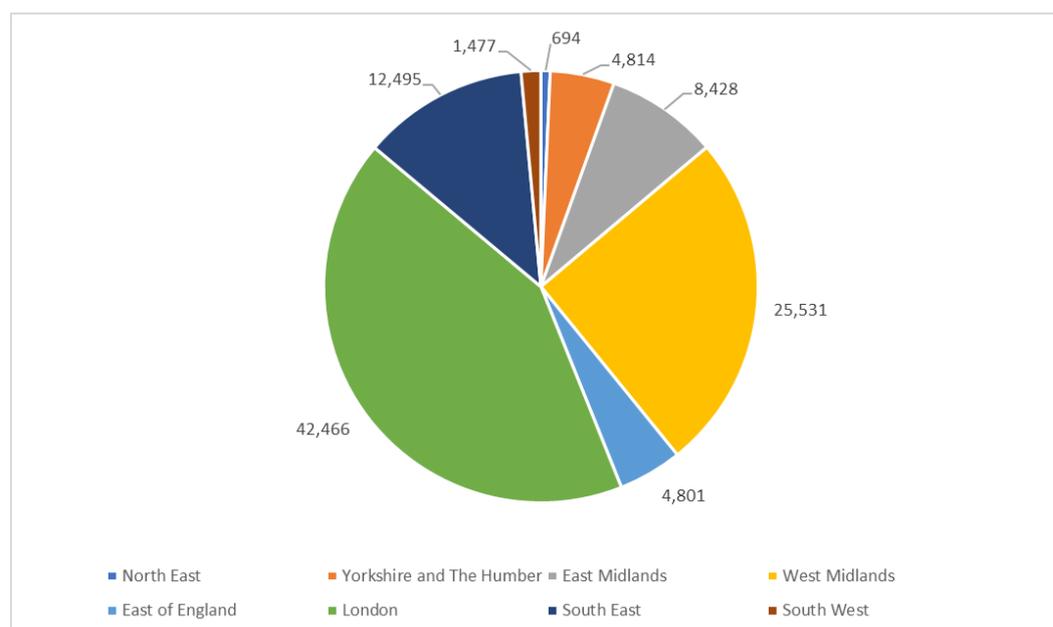
The government responded to the Hackitt review by introducing the **Building Safety Act 2022** which added fire and general safety requirements for 'higher risk buildings' above a specified height, i.e. buildings above 18m or seven stories in height and with at least two residential units(46). Although the Act does not explicitly refer to buildings created through PD, the act applies a broad definition that the requirements apply to all such high risk 'buildings', which are defined as '(a) any other structure or erection of any kind (whether temporary or permanent)' (47). 'Accountable persons' (building owner, freeholder, or management company) will have an ongoing duty to assess building safety risks and provide a 'safety case report' which demonstrates how building safety risks are being identified, mitigated, and managed on an ongoing basis. The Act created a Building Safety Regulator who acts as the building control authority for all high-rise buildings. It also established the New Homes Ombudsman Service, which private developers can register with voluntarily. The Secretary of State can require the developer to join but that requirement can be appealed. The Ombudsman is required to maintain a public register of members which applies to homes built or redeveloped after introduction of 2022 Act. Complaints to the Ombudsman can be made by the owner, occupier or owner/landlord within the first two years of acquisition who, on reviewing the complaint, may apply certain remedies (including: payment; apology; provide an explanation; another action in the interests of the complainant as specified by the new homes ombudsman)(48).

A similar example of reactive regulatory change took place after the death of Awaab Ishak, a two-year-old boy who died from a respiratory condition caused by mould in his Rochdale flat in 2020. His death, alongside ongoing failures to increase the proportion of homes that meet the Decent Homes Standard (see below), contributed to a review of building regulations and guidance in England. The review led to amendments in the Building Regulations regarding ventilation and energy efficiency requirements (Approved Documents F (Ventilation) and L (Conservation of fuel and power)), as well as to the establishment of a new building control process, overseen by the Building Safety Regulator (BSR) (49). These regulations apply to all construction projects dated after 15 June 2022. In addition, the Department for Health and Social Care (DHSC) also introduced new Guidance on Damp and Mould (50). Whilst the guidance indicates it applies to all housing providers (including social and private landlords, temporary accommodation providers) there is no specific reference to homes created through permitted development or material change of use. The legal status of damp guidance is also

somewhat unclear: although it is not legally binding, it may be used as evidence in court proceedings<sup>9</sup>.

### 3.3.2 Decent Homes Standard

The Decent Homes Standard (DHS) established criteria that social housing in England and Northern Ireland must meet to be considered ‘decent, safe and secure’. The standard was introduced in the early 2000s and has been reviewed several times since<sup>(51)</sup>. The government expects social landlords to ensure that their homes meet the standard and report on progress annually. In England, London is the region with the highest number of homes that are classified as ‘non-decent’ (in March 2023).



**Figure 3. Number of non-decent homes by region, in England (2023)** (Source: DLUHC Live data 31 March 2023)

The government set a target in the Levelling Up White Paper <sup>(52)</sup> to reduce the number of ‘non-decent’ rented homes by 50% by 2030 (compared to 2021), particularly focusing on the ‘lowest performing areas’. The standard has four aspects that relate to health policies, where social housing must:

- **Be free of ‘Category 1 hazards’** – 29 hazards are defined which pose a serious threat to the health or safety of the occupants or visitors, including damp, mould, asbestos, carbon monoxide, fire, falls, etc. These are outlined in the Housing Health and Safety Rating System

<sup>9</sup> The Damp and Mould guidance made the following proposals, to:

- introduce ‘Awaab’s Law’ to set out new requirements for landlords to address hazards such as damp and mould in social homes. Following a consultation, we’ll bring these into force as soon as Parliamentary time allows
- provide new powers for the Housing Ombudsman and change the law so that social housing residents can complain directly to the Ombudsman
- review the Decent Homes Standard and apply it to private rented homes for the first time
- introduce new professionalisation standards that will require senior housing staff to hold, or work towards, recognised housing management qualifications
- introduce the new private rented property portal and give all private tenants access to an ombudsman if their landlord fails to resolve legitimate complaints

(HHSRS) which is an assessment system rather than a standard itself. HHSRS was first introduced in the Housing Act 2004 and later incorporated into the Homes (Fitness for Human Habitation) Act 2018;

- **Be in a reasonable state of repair** - ensure components, such as the roof, walls, windows, doors, plumbing, electrics, etc, are not old, damaged or faulty and do not pose a health or safety risk;
- **Have reasonably modern facilities and services** - the home should have a kitchen that is no more than 20 years old, a bathroom that is no more than 30 years old, an effective heating system, adequate insulation, and enough space and layout for the household;
- **Provide a reasonable degree of thermal comfort** - the home should have efficient heating and insulation to maintain a comfortable indoor temperature and prevent excess cold or heat, which can affect the health of the occupants<sup>r</sup>.

The government has considered but not yet applied the DHS to the private rented sector (PRS)<sup>s</sup>, noting that PRS homes perform less well compared to social rented and owner-occupied homes (see Figure 4)<sup>t</sup>. While more homes are meeting the standards, one in ten homes is still classified as ‘not decent’, and the consequent health costs in terms of treatment by the NHS have been estimated to be around £1.4bn each year (53). That estimate does not take into account the additional social and economic costs, such as lost working and caring hours etc.

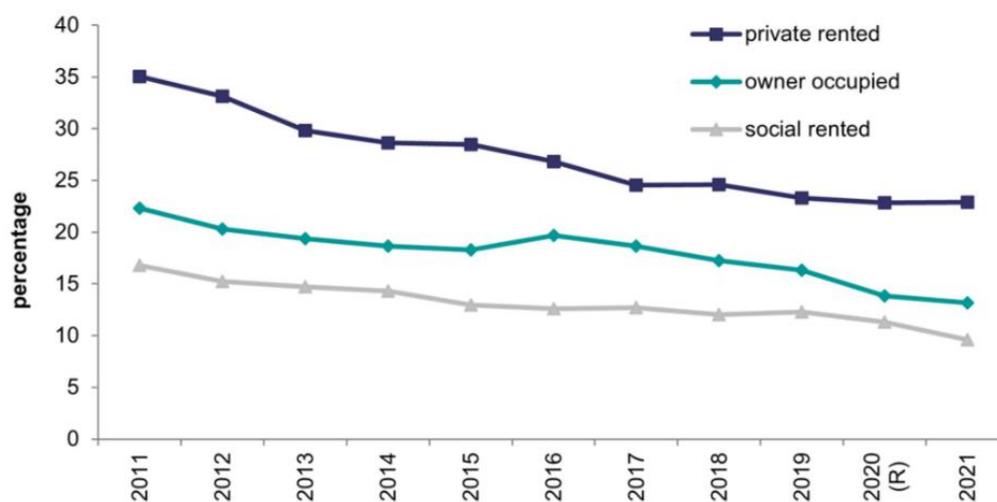


Figure 4. Non-decent homes, by tenure, 2011 to 2022 (Source: English Housing Survey, 2022)

<sup>r</sup> A decent home: definition and guidance - GOV.UK ([www.gov.uk](http://www.gov.uk))

<sup>s</sup> Private Rental sector – policy review in 2022: A fairer private rented sector - GOV.UK ([www.gov.uk](http://www.gov.uk))

<sup>t</sup> English Housing Survey 2021 to 2022: headline report - GOV.UK ([www.gov.uk](http://www.gov.uk))

### 3.3.3 Key housing and public health acts

The Housing Ombudsman service was created by the **Housing Act 1996** and further amended by later legislation. The aim of the Housing Ombudsman Scheme is to enable complaints by social housing tenants to be investigated by the ombudsman. This includes complaints regarding various health-related issues, such as addressing damp and mould. The Act requires social landlords, as defined by section 51(2) of the Act, to be members of an approved scheme. Others, such as private housing associations, may join the scheme on a voluntary basis (54). In addition, there is a proposal to introduce a separate PRS ombudsman, under the draft Renters Reform Bill which is going through parliament at the time of writing this report<sup>u</sup>.

The **Homes (Fitness for Human Habitation) Act 2018** seeks to extend tenant rights in social and private rental sectors from 2019 onwards. Under this act, landlords are required to ensure that their rental properties are '*fit for human habitation*' (55). It states that landlords must not let out dwellings with serious 'category 1' hazards which mean that a dwelling is not safe to live in. Category 1 hazards are defined in the Housing Health and Safety Rating System (HHSRR) which includes 29 hazards to health arising from housing, including: damp and mould, excess cold/heat, noise, lighting, and fire safety, amongst others. The act creates a statutory duty on local authorities to consider housing in their area, and to intervene in some cases such as where homes contravene category 1 hazards. The Homes Act allows tenants to bring a private civil claim for disrepair against their landlord and seek compensation, without engaging an environmental health officer (EHO) before making a claim. However, tenants also retain the right to seek redress via engaging an EHO<sup>v</sup>. The Homes Act does not apply to owner-occupied properties and is dependent on tenants knowing their rights and having the resources and capacity to take forward a claim. Serious problems have been identified with enforcing and upholding these regulations however, as outlined by the 'Journeys in the Shadow PRS' report which highlighted certain landlords' 'wilful ignorance of the law', and particular failures for people from minority ethnic backgrounds and tenants on low-incomes (56).

Two earlier acts, the **Public Health Acts of 1936** and **1961** provide local authorities with powers to protect occupants' health and the quality of the wider environment, including regarding supply of clean water, drainage and sewage (among other issues). This includes provisions regarding the cleanliness of properties and ensuring adequate separation of waste water and foul waste, fresh water supply (56).

The **Housing Acts of 1985** and **2004** also outline statutory requirements to address overcrowding which applies to PRS and social housing sectors (although not council housing). They outline maximum occupancy rates for the number of people who can sleep in a home with multiple occupants (HMOs), referring to minimum space, and the ratio of people to utilities in such buildings. EHOs have the power to take landlords to criminal prosecution or impose a £2,500 civil fine if they breach thresholds. S257 of the Housing Act 2004 indicates that poorly converted properties with five residents or more can be treated as HMOs by LPAs and licensing and enforcement teams even if the units are self-contained.

More recently, the **Housing and Planning Act 2016** gives local authorities additional powers regarding landlords, property managers and letting agents in the PRS – which would apply to PD dwellings in that sector. Under the act, authorities can impose 'civil' financial penalties or

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<sup>u</sup> Private Rented Sector Ombudsman: Renters (Reform) Bill - GOV.UK ([www.gov.uk](http://www.gov.uk))

<sup>v</sup> [Keeping homes fit for habitation | Journals | RICS](#)

criminal remedy for failures to comply with housing improvement notice or overcrowding notice, as well as failure to comply with HMO management regulations. Local authorities can seek a banning order if a landlord or property agent has committed an offense, and impose a rent repayment order for a range of offences, including: failure to comply with a housing improvement notice; illegal eviction through harassment; using violence to enter a property.

Regarding environmental health and buildings, councils in England must investigate complaints about issues that are considered to be a 'statutory nuisance'. The definition of nuisance is outlined in the **Environmental Protection Act 1990** and must involve one of the following:

- unreasonably and substantially interfere with the use or enjoyment of a home or other premises;
- injurious to health or be likely to injure health.

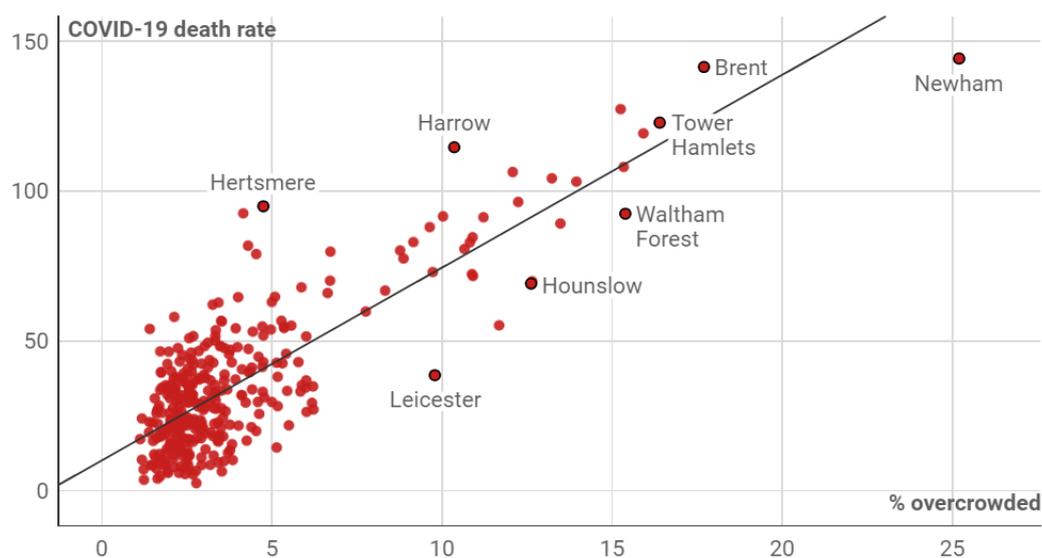
If a council finds that a statutory nuisance is happening, has happened or will happen in the future, they must serve an abatement notice on the person responsible. Statutory nuisance issues include: noise from premises or from vehicles, equipment or machinery in the street; smoke from premises; smells from industry, trade or business premises (for example, sewage treatment works, factories or restaurants), artificial light from premises, insect infestations from industrial, trade or business premises, accumulation or deposits on premises (for example, piles of rotting rubbish)(57).

### 3.3.4 General regulatory challenges

Despite clear and growing evidence about the links between planning, the quality of the built environment and health outcomes (61,60,58), national regulations have tended to be reactive, without properly addressing the need to promote inclusive population health by enhance the quality of the built environment (59,64). There have also been various reports highlighting concerns about the enforcement of minimum regulations that seek to protect people from harm, even when they are in place (59,62,56). There are three central challenges associated with these various building regulations and obligations are reported.

Firstly, such rules do not currently prioritise addressing the health inequalities that are associated with the built environment in a clear or specified way in either building regulations or planning policy (64,59,56). Lower income households are more likely to live in non-decent, overcrowded properties and are more likely to experience a higher housing cost burden, all of which negatively affect health (65,66). These inequalities were particularly highlighted during the Covid 19 outbreak (see geographic breakdown on Figure 5). The English Housing Survey in 2020 found that 30% of Bangladeshi households, 16% of Pakistani and 15% of black African households lived in overcrowded accommodation, compared to just two percent of white British households. A strong correlation was found with overcrowding and greater risk of infection and loss of life (67). People of BAME background (Black, Asian and other ethnic minority) were also found to have eleven times less access to green space (68).

## COVID-19 death rates versus housing overcrowding



COVID-19 death rates shown per 100,000 people between 1 March and 17 April

Chart: Nathaniel Barker • Source: ONS • [Get the data](#) • Created with [Datawrapper](#)

**Figure 5. Covid-19 death rates correlated to overcrowding** (source: Inside Housing, 2020)

Second, while building regulations seek to protect people from the most severe risk of harm they miss various criteria that will positively promote and improve people's physical and mental health through built environment location, layout, features or design (58,59). They do not cover certain built environment attributes that can affect health outcomes. For example, there are no mandatory requirements for new homes regarding the provision of adequate internal space (except, for PD dwellings) or minimum access to good quality green spaces and amenities which are associated with positive physical and mental health benefits. Such factors are also noted for promoting peoples' ability to work and study effectively (60,61).

Thirdly, there are concerns about the capacity of authorities to effectively monitor and enforce existing regulations and policy requirements, as well as the voluntary nature of developers signing up to the new Homes Ombudsman Service, particularly for those in the private rental sector (59,62,63).

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# 4 Review of PD implications for each Healthy Homes principle

## 4.1 Overview

The following section uses the TCPA ‘Healthy Homes’ principles to review specific policy and regulatory requirements in England, and current PD rules, to understand how they might affect the delivery of each principle. This section seeks to examine whether the Healthy Homes principles are likely to be achieved under the permitted development regime (69,70). The Healthy Homes principles were developed as part of a national campaign for legislative reform proposed through a draft Healthy Homes Bill. The principles were developed in dialogue with a coalition of around 60 housing, public health and planning organisations from local government, academic, charity and private sectors. The principles are underpinned by a significant and growing body of evidence which highlight the strong links between the specific built environment ‘determinants of health’ as outlined in the Healthy Homes principles and population health outcomes (71,61,60).



**Healthy Homes Principles**



**Fire safety**

All new homes must be safe in relation to the risk of fire



**Liveable space**

All new homes must have, as a minimum, the liveable space required to meet the needs of people over their whole lifetime, including adequate internal and external storage space



**Access to natural light**

All new homes must have access to natural light in all main living areas and bedrooms



**Inclusive, accessible and adaptable**

All new homes and their surroundings must be designed to be inclusive, accessible, and adaptable to suit the needs of all



**Access to amenities and transport**

All new homes should be built within places that prioritise and provide access to sustainable transport and walkable services, including green infrastructure and play space



**Climate resilient**

All new homes must demonstrate how they will be resilient to a changing climate over their full life time



**Reductions in carbon emissions**

All new homes must secure radical reductions in carbon emissions in line with the provisions of the Climate Change Act 2008



**Safety from crime**

All new homes must be built to design out crime and be secure



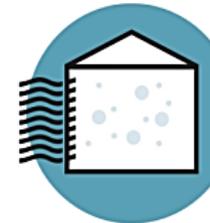
**Limit light and noise pollution**

All new homes must be free from unacceptable and intrusive noise and light pollution



**Thermal comfort**

All new homes must be designed to provide year-round thermal comfort for inhabitants



**Prevent air pollution**

All new homes must minimise and not contribute to unsafe or illegal levels of indoor or ambient air pollution

To find out more about the Campaign for Healthy Homes please visit:  
[www.tcpa.org.uk/collection/campaign-for-healthy-homes/](http://www.tcpa.org.uk/collection/campaign-for-healthy-homes/)

Regarding each principle the review examines the:

- Health rationale underpinning the principle and headline trends;
- Policy requirements (England only) relating to the principle;
- Building regulations;
- Voluntary guidance / standards; and
- PD requirements and implications

#### 4.2 Fire safety

In England, there were 40,164 fire incidents linked to dwellings and other buildings for the year ending June 2022. In the same period, there were 275 fire-related fatalities compared with 251 in the previous year (72). As mentioned in 4.1 there have been some reactive regulations introduced to try and address some of the regulatory gaps in the current fire safety regime, particularly in relation to exterior cladding and access of emergency vehicles. These are discussed further below.

The Building Act (1984) tasks building control (via local authority building control officers or by ‘approved inspectors’) with ‘securing the health, safety, welfare and convenience of persons in or about buildings and of others who may be affected by buildings or matters connected with buildings’. This includes fire specific responsibilities regarding: structural measures to resist the outbreak and spread of fire and to mitigate its effects; services, fittings and equipment designed to mitigate the effects of fire or to facilitate firefighting; and means of escape in case of fire and means for securing that such means of escape can be safely and effectively used at all material times (73).

The Housing Act 2004 created the HHSRS which include measures to assess fire risk (74). Local authorities are required to monitor the housing conditions, and the aim of part 1 of the Act is that local authorities will prioritise dealing with the greatest risks to health and safety in dwellings. Therefore, some owners and landlords may be required to undergo a HHSRS inspection. The HHSRS offers guidelines for environmental health officers to assess the both the likelihood of a fire and the severity of harm that could result from a fire (75), although, this is not standard or minimum requirement.

Building Regulations (2010) ‘Approved Document B’ refers to interior and exterior fire safety requirements regarding the design and construction of buildings (76).

- B.2 refers to inhibiting the spread of fire via ‘internal linings’, such as materials or products used to line any partition, wall, ceiling or other internal structure.
- B.3 refers to ‘internal structures’ that can inhibit spread of fire, including common walls between buildings; automatic fire suppression systems; inhibiting unseen spread of fire and smoke within concealed spaces.
- B.4 refers to external walls and roof; and
- B.5 is regarding ensuring access and facilities for fire services.

Regulations introduced in 2015 require private landlords to provide smoke and carbon monoxide detectors in all relevant properties (77). Further regulations introduced in 2020 require landlords to carry out electrical safety checks every five years (78). A ban on the use of combustible materials in the external walls of buildings was implemented through amendments to the Building Regulations 2010 in 2018 (20, 21). Approved Document B indicates that

buildings with a ‘residential’ purpose and a storey of 11m or more in height, elements such as cladding, balconies, and other external surfaces must achieve class A1 or A2 – banning the use of combustible materials for cladding.

Responding to the Grenfell Tower fire, the government released guidance in 2021 regarding fire safe land use measures around high-rise residential buildings (at or above 7 stories or 18m in height), called ‘Planning Gateway One’ guidance. Planning Gateway One indicates that planning applicants are required to produce a fire statement with land use information, including about emergency vehicle access and water supplies for firefighting<sup>w</sup>. As this guidance relates to the planning process it does not refer to housing created through PD.

Additionally, the Planning Practice Guidance (PPG) on fire safety and high-rise residential buildings (from 1 August 2021) highlights the requirement in the GPD Order 2021 for developers to obtain prior approval as to matters relating to fire safety, as well as to submit a fire statement about fire safety design principles, concepts and standards that have been applied to the PD development (81).

Enforcement of fire safety measures can be required post-construction using a ‘remediation order’, where a tenant, via a fire and rescue authority (or local authority), can apply to the First-tier Tribunal Property Chamber (82). If the fire authority assesses a building and finds it needs to be remediated, tenants can also apply for a ‘remediation contribution order’ to recover costs already paid towards remediation, and place an order against ‘persons associated’ with the developer to recover the remediation costs (83).

As mentioned in section 4.3, the **Building Safety Act 2022** has created stronger fire safety obligations for the construction and use of all buildings over 18m or 7 stories, with two or more dwellings. The **Fire Safety (England) Regulations 2022** were also established (under article 24 of the **Fire Safety Order 2005**) to apply new requirements on ‘responsible persons or others, including building owners and building managers’ and help mitigate fire risks to residents. These requirements relate to providing building plans and external wall systems information to emergency services, monthly checks of lifts and stairwells, information boxes for residents and wayfinding under emergency conditions. For buildings over 11 meters there must be annual check to flat entrance fire doors and quarterly checks of fire doors in shared areas; and provisions for fire door information and fire safety instructions in buildings with ‘multiple occupants and over two separate domestic residencies’ (84).

#### Summary of PD implications

The most recent fire safety regulations in 2022 appear to apply to new and existing buildings. Approved Document B requirements refer to the design and construction of a building and according to the government manual, these requirements also include existing buildings. However, there is no explicit language in the regulation about how these requirements apply to

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<sup>w</sup> The fire statement should include information about:

- the principles, concepts and approach relating to fire safety that have been applied to each building in the development
- the site layout
- emergency vehicle access and water supplies for firefighting purposes
- what, if any, consultation has been undertaken on issues relating to the fire safety of the development; and what account has been taken of this
- how any policies relating to fire safety in relevant local development documents have been taken into account:  
<https://www.gov.uk/guidance/fire-safety-and-high-rise-residential-buildings-from-1-august-2021>

buildings undergoing a change of use – whether under permitted development rights or otherwise.

It is not specified whether PD conversions have to consider the risks of cladding and exterior insulation from fire - since PD does not involve changes to the exterior of the building – unless the building is above 18 meters or 7 stories, as per the Building Safety Act 2022. This raises a concern regarding those PD (and other) residential buildings that are below the height threshold of seven stories / 18 meters (for Planning Gateway One) and 11 meters for fire safety checks, as outlined in the 2022 Fire safety legislation. Uncertainty exists whether buildings below these thresholds are required to meet the same level of risk management and mitigation plans, such as keeping a record of design of exterior wall materials and the associated risk for those materials. In addition, the Planning Gateway One fire safety requirement only explicitly refers to buildings created through the planning application process. Thus, PD residential buildings are not specifically covered by the Planning Gateway One requirement.

#### 4.3 Liveable space

Since the global pandemic in 2020, the importance of ensuring that homes have the liveable space necessary to support people over their lifetimes has become even more clear. The 2021 census found 4% of households in England and Wales were overcrowded – with overcrowding more common for social renters (9% of households), than private renters (7%) and owner-occupiers (2%). Overcrowding was higher in urban areas including London, Birmingham and Leicester (85). Research from the National Housing Federation found that nearly a third of adults in Britain experienced mental or physical health problems due to the condition or lack of space in their home during the Covid-19 lockdown; and 52% of those who said their homes weren't big enough suffered from health problems according to a YouGov survey (86).

Overcrowding in houses with multiple occupants is a significant health concern. In 2023, the National Housing Federation reported that over 310,000 children in England have to share beds with other family members due to space limitations. Households from minority ethnic backgrounds are three times as likely to be affected by overcrowding than white households, and 70% of overcrowded families report both poor mental and poor physical health as a direct result of overcrowding (87). Studies like this highlight the importance of ensuring that homes have, as a minimum, adequate liveable and storage space.

While there is a statutory Overcrowding Standard in the Housing Act 1985, this is described as 'not generous' and the English Housing Survey uses a different measure of overcrowding. England does not have a legal requirement to ensure a sufficient minimum space in homes. The standards sets out minimum standards which are still small in size, and do not count children under the age of one, and children under the age of 10 are considered half a person (88).

Since April 2006, it has been mandatory for large houses in multiple occupation (HMOs) with three or more storeys and five or more occupants who do not form a single household, to be licensed in England and Wales in order to help 'tackle overcrowding, poor property management and the housing of illegal migrants' (89). From October 2018, this licencing requirement was extended to apply to HMOs with five or more occupiers living in two or more households regardless of the number of storeys. Local authorities can impose civil penalties (up to £30,000) as an alternative to prosecuting landlords without proper licences, through the **Housing and Planning Act 2016** (89). The 2016 Act also provides for changes to the 'fit and

proper' person test that applies to landlords of licensable HMOs. LPAs in England can seek to control the number of HMOs in their area by requiring planning applications for the conversion of residential properties into HMOs.

The Nationally Described Space Standard (2015) sets out voluntary guidance that the minimum size of any dwelling should be 37 square meters (90,91). As it is discretionary for local authorities to specify the application of the space standard in their local plan policy, new developments created through planning applications are not legally required comply with this standard (94) (with the exception of London, where the London Plan is a *statutory* development plan, and planning decisions must be informed by the London Plan spatial standards (92)). Until 2021, homes created through PD did not have to meet this standard either. However, in 2021 PD was revised so that that the space standard was applied to homes created through PD (93). However, thousands of PD conversions that pre-date the 2021 requirement will fall below this standard.

There are other policies and voluntary guidance on space, such as in the NPPF, the National Design Guide and National Model Design Codes. NPPF Chapter 12 (Achieving well-designed places) provides guidance on space, but while NPPF policies, NDG and NMDC are material considerations, they are not mandatory and do not apply to homes created through PD (29).

#### Summary of PD implications:

Regulation 3 of the Town and Country Planning (General Permitted Development) (England) (Amendment) Regulations 2020 (SI: 2020/1243), which came into force in April 2021 includes a new requirement for PD that new dwellings must be at least 37 square metres in size or comply with nationally prescribed space standards (95). Homes that are rented out are required to meet the overcrowding standards set by the Housing Act 1985. As PD does not come under the planning application process LPAs will not be able to control the levels of HMOs under PD conversions.

#### 4.4 Inclusive, accessible and adaptable

Building homes that are accessible, inclusive and adaptable for people with disabilities is an imperative for ensuring that the nation's housing stock is resilient and meets the needs of all residents, including children, older people, disabled people including wheelchair users, and people with sensory, cognitive and neurodiverse conditions.

In England, 8% of all households (1.9 million homes) have at least one person with a long-standing physical or mental health condition who require adaptations to their home (96). The Equality and Human Rights Commission lists mobility problems, indignity, poorer mental health, feelings of social isolation and anxiety all as impacts of non-accessible homes; and reports that those without accessible homes are four times less likely to be in work (97). With 104,000 people on waiting lists for accessible and adaptable homes and population models indicating that by 2041 one in four people in England will be aged 65 or over, the need to build inclusive, accessible and adaptable homes is evident (98,99).

Under the **Equality Act 2010**, those who provide services (including social housing services) to the public are prohibited from discriminating, directly or indirectly, against someone based on a protected characteristic, such as disability (100). With regards to housing, the Equality Act refers to the duty to make 'reasonable adjustments' for disabled people. These might include the

removal or alteration of physical features, fixtures and fittings of a building, as well as other considerations such as policies, procedures and staff training (101). Section 36 regarding disabled adaptations in leasehold flats and common parts would also apply to private dwellings, as well as social housing – however despite the government consulting on this section in 2021 this has yet to be enacted (96).

NPPF paragraph 135(f) says planning policies ‘should create places that are safe, inclusive and accessible and which promote health and well-being’. The accompanying footnote 52 indicates such policies: ‘Should make use of the government’s optional technical standards for accessible and adaptable housing, where this would address an identified need for such properties’. As noted, NPPF policy applies to developments that go through the planning application process and therefore PD homes do not need to meet this requirement.

Building Regulations Approved Document M contains ‘information’ about the ease of access and use of buildings (102,103). The guidance has three categories: M4(1) visitable dwellings, M4(2) accessible and adaptable dwellings, and M4(3) wheelchair user dwelling. M4(1) outlines the current regulatory baseline for making ‘reasonable provisions to make homes visitable and accessible for users. According to the government manual on building regulations M4(1) does not apply to flats or dwellings when there is a material change of use from an existing (non-residential) building. M4(2) is about ease of access for most people including some wheelchair users and the future adaptability of the property. M4(3) refers to meeting the more specific needs of a wheelchair user household with M4(3)(a) being a standard of provision that can be adapted to individual needs and M4(3)(b) providing a home that is fully fitted and ready for a wheelchair user to live in. These two standards are optional for LPAs to adopt through their planning policies. Once adopted in a local plan the standards are implemented through planning conditions on individual housing schemes, and should be monitored by building control teams or approved inspectors in the same way as other regulations. Consequently, there is no mandatory national standard for the number of homes that are deemed to be accessible in accordance with M4(2) and M4(3) and these standards do relate to homes created through PD. According to the Habinteg housing association, 70% of new homes built between 2020-2030 won’t be required to meet any of the M4(2) and M4(3) standards necessary to improve accessibility and adaptability for older and disabled people (104).

Voluntary guidance is available, such as the principles and frameworks published by the Housing for Older People Panel for Innovation (HAPPI) to ensure that homes are built with inclusivity, accessibility and adaptability in mind. These principles are not mandatory however and do not apply to PD homes. This also applies to those in the National Design Guide and National Model Design Code and the PPG on the housing needs of different groups.

The 2021 White Paper, ‘People at the Heart of Care’, outlines the government’s 10-year vision for adult social care in England (105). The government stated that it would consult on improvements regarding the disabled facilities grant (DFG) scheme to improve the provision of housing adaptations, but as of September 2023, no consultations have been launched (106).

#### Summary of PD implications

Building regulation Approved Document standards M4(1) Visitable Dwellings does not apply to dwellings or flats that have been produced through a material change of use, including permitted development conversion. M4(2) Accessible and Adaptable Dwellings and M4(3)

Wheelchair accessible dwellings are specified by LPAs through their local plan policies and are tied to the planning application process. So, there are no clear and mandatory requirements for PD homes to address the accessibility standards.

#### 4.5 Access to natural light

There is strong evidence that natural light has a positive impact on mental health and circadian sleep cycles (107). In a study of over 6,000 residents across eight European cities it was found that those with self-reported low levels of natural light were 1.4 times as likely to report depression and 1.5 times as likely to report a fall when compared to those satisfied with their home's light levels (108).

Standards related to natural light are not set in the NPPF. Indeed, chapter 11 (Making effective use of land) prioritises the efficient use of land in the location of a building over the provision of daylight to buildings:

*'when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site' (29).*

This policy prioritises a higher density of dwellings over the provision of daylight for habitable rooms. The health effects are not overtly considered although it is noted that the scheme must provide acceptable living standards.

The National Design Guide highlights the importance of access natural light as a component of a well-designed home (109). The National Model Design Code also shares this sentiment, stating: *'All habitable rooms should receive adequate levels of daylight. Single aspect north-facing dwellings should be avoided'* (110). While this is commendable, it should be noted that these guidelines are only recommendations and not mandatory. The Building Research Establishment (BRE) has also produced a good practice guide titled *'Site layout planning for daylight and sunlight'* that advises how to plan developments that have good access to daylight and sunlight,, but again this guidance is not mandatory (111).

The GPD Order 2015 introduced a new class of buildings (ZA) which allows the demolition of offices and light industrial buildings (use class B1) for new flats or dwellings, and up to two new stories for the new structure. This new class of PDR does require prior approval if it is deemed: *'...the impact of the development on the amenity of the new building and of neighbouring premises, including overlooking, privacy and light...'* (24)

The GPD Order 2020 created new conditions which now require the developer to apply the local planning authority's determination as to whether prior approval is required for 'the provision of adequate natural light in all habitable rooms of the dwellinghouses' for specific use classes of buildings (Classes M, N,O, PA and Q). This means that class L buildings (small HMOs to dwelling houses) are excluded from this requirement (22). This change was likely in response to concerns raised about the quality of homes delivered in some developments under existing PDR for changes require that adequate natural light is provided in all habitable rooms. The amendment does not specify the provision of windows in dwellings however and LPAs are expected to exercise their planning judgement in the prior approval process when considering the detailed floor plans in their assessment of adequate light in habitable rooms (22).

The HHSRS also assess the light of dwellings. The Operating Guidance states that: *‘The assessment should include the views from windows and the adequacy of both artificial and natural lighting for the dwelling as a whole’* (112).

#### Summary of PD implications

Access to natural light is considered across government policy, but the language is often weak or non-binding for homes created through PD. In some cases, such as Class ZA development, light is considered but this does not apply to all forms of permitted development.

The Town and Country Planning (General Permitted Development) (England) Order 2021 has set out new standards to ensure access to natural light for homes created through PD (24). However, these changes only consider ‘natural light’ (such as through skylights) and do not actually require the provision of windows or ideally dual aspect windows in homes. Furthermore, for conversion to be allowable through PD, changes to the exterior of a building, such as the addition of windows, may not be allowed otherwise planning permission would need to be obtained.

#### 4.6 Access to amenities, transport and nature

All homes should be designed with good access to public transport, the GP, schools, local shops and parks to support our health and wellbeing (113). Public Health England found that neighbourhoods without active travel options (buses, trains, walking and cycling routes) negatively impact mental wellbeing and increase the risk of Type 2 diabetes, cardiovascular disease and musculoskeletal diseases (114). Access to green and blue infrastructure has also been shown to mitigate stress and promote healthy lifestyles (115,116). For example, a survey of 406 adults in Scotland found that the amount of green space in a neighbourhood was a significant predictor of stress levels (117).

In the NPPF, chapter 8 (Promoting healthy and safe communities), chapter 9 (Promoting sustainable transport) and chapter 12 (Achieving well-designed places) contain policies pertaining to the access of amenities transport and nature. Chapter 8 states that: *‘Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change.’* (29) Chapter 9 recognises the importance of sustainable transport with the statement that: *‘All developments that will generate significant amounts of movement should be required to provide a travel plan.’* (29)

Regarding the wider design impacts of accessibility, chapter 12 sets out the expectation that: *‘[d]esign policies should be developed with local communities so they reflect local aspirations, and are grounded in an understanding and evaluation of each area’s defining characteristics.’* (29) Chapter 12 also encourages LPAs to: *‘prepare design guides or codes consistent with the principles set out in the National Design Guide and National Model Design Code, and which reflect local character and design preferences.’* (29) While positive and ‘material considerations’, the recommendations within the NPPF are not mandatory.

Additional non-mandatory guidance on the provision of green spaces is offered in the National Design Guide, National Design Code and the PPG on open space, sports and recreation facilities, public rights of way and local green space (109,110,118). These echo the sentiments made on the topic within the NPPF.

The government introduced national Green Infrastructure Standards (quality, quantity and accessibility) in January 2023, including a national goal that every home should be within a 15 minute walk of green or blue space (119). However, the GI standards are optional, not mandatory. And national planning policy and guidance has not yet been updated to refer to these standards or the national goal of everyone living within 15 minutes of green or blue space (as of November 2023).

Developer contributions through ‘section 106’ agreements (set out in the Town and Country Planning Act 1990), are legal agreements between a planning authority and developer to ensure specific extra works are delivered with a housing development, and can include additional transport provisions (186). Similarly, the community infrastructure levy (CIL) is a charge levied by local authorities on new developments to help authorities deliver additional services based on local evidence of need and viability. CIL can be applied to a range of local infrastructure including transport, flood defences, schools, hospitals and other health care facilities. However as PD developments do not require full planning permission section 106 agreements which are secured by condition cannot be applied, unless the building has not been ‘in-use’ for a continuous period of at least six months in the last three years (120). CIL can include PD housing but it is at the discretion of the local planning authority to state this through the local CIL charging scheme. Consequently, there are no mandatory provisions under PD that ensure the local community will have adequate access to fundamental services such as health care and schools.

#### Summary of PD implications

Developers undertaking PD conversions are not required to make contributions to local amenities and infrastructure through s Section 106 Agreements nor CIL (120). Conversions that create additional floorspace can be subject to developer contributions, but many PD developments do not fall under this scope. In the future, proposed changes in the Levelling Up and Regeneration Act (2023) may require CIL contributions under PD, but it remains unclear how far such changes will go as the government is keen that policies do not undermine the supply of new homes and are still viable (121).

There are also concerns about the loss of high street retail as a result of PD residential conversions. This can have serious economic implications as well as imposing challenges for effective placemaking, as PD reduces the control local authorities and communities have over development in their area. Vital services such as schools and GP surgeries may not be equipped for the influx of residents that PD may bring, thus reducing the entire community’s access to services and amenities(5,25).

Local plan policies applying to these issues cannot be applied through prior approval. Although, transport and highway impacts are one of the limited issues that can be considered through prior approval for PD conversion. This gives local authorities the opportunity to consider relevant measures, such as cycle ways and parking (122).

#### 4.7 Reduction in carbon emissions

The energy use in UK homes accounts for 14% of the country’s total carbon emissions.(123) With this in mind, it is clear that the energy we use in our homes has massive implications on the environmental elements of sustainability, but it also directly impacts the economic and social aspects. Homes with poor energy efficiency and insulation contribute to energy insecurity

and even fuel poverty. According to the ONS, over half of adults were worried about heating their homes during the winter of 2022-2023 (124).

As of April 2018, the Minimum Energy Efficiency Standards (MEES) require privately rented properties in England and Wales to meet a minimum and relatively low energy efficiency standard of EPC E (125). This should make it slightly easier for renters to keep their homes warm, while supporting wider aims to make housing more energy efficient.

Building Regulations Approved Documents L (conservation of fuel and power) set standards for energy efficiency in new homes and for major changes to existing homes (126). Under the Future Homes Standard, new homes will be required to be built to produce 75% to 80% less carbon from 2025 than those built under the current Building Regulations standards (127). However, research by the UK Green Building Council has found that the Future Homes Standard falls short of meeting net zero requirements (128). The Chartered Institute for Housing also states that a 75% to 80% reduction in emissions for new homes is not sufficient to respond to climate change, instead new development must be designed to operate at net zero (129).

The NPPF, in chapter 9 (Promoting sustainable transport) and chapter 14 (Meeting the challenge of climate change, flooding and coastal change) contains policies relating to cutting carbon emissions. Chapter 14 states that:

*The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure (29).*

Although the policies in the NPPF are material considerations, they apply through the planning system and therefore do not apply to PD homes. The National Design Guide and National Model Design Code also offer guidance and recommendations for energy efficient design but they are not mandatory.

#### Summary of PD implications

According to the government Future Homes and Buildings Standards(130) consultation, approximately 37% of the residential conversions created in 2021-22 (28,000 in total) were through PD rights where a full planning application was not required. The consultation states: 'Building regulations are the only regulatory lever to control the energy efficiency of dwellings created through PD.' A material change of use (MCU) to residential conversion following current standard building regulation requirements (i.e., relatively poor fabric and either gas boilers (low-rise) or storage heaters (mid- to high-rise)) would have £830 –£1,780 (84% - 180%) higher annual energy bills and produce 0.9 - 1.3 tCO<sub>2</sub>e (100% – 148%) more per year than new-build flats of a 2021 standard. Furthermore, overheating standards (Approved Document O) currently do not apply to MCU dwellings.

Residential dwellings created through PD are only required to follow Building Regulation Approved Document L on energy efficiency. The MEES is applied to the private rented sector,

however the UK Green Building Council states that the majority of HMOs fall out of the scope of the MEES for the private rented sector (131). This has direct implications for PD homes, as the quality of HMOs is largely regulated through the planning system which does not apply to PD dwellings, unless a local authority applies Section 257 of the Housing Act 2004.

#### 4.8 Climate resilient

Climate resilience relates to the need for planning and development to address the increased risk of extreme weather events and associated impacts from climate change, including flooding and storm risk, droughts and overheating, increase risk of wildfires and air pollution, water and food insecurity, as well as increased risk of communicable and non-communicable diseases (132). Development responses should include risk assessment, preparedness and mitigating measures, including investment in green infrastructure and climate-proofing measures (133).

Since 2016, 570,000 new homes have been built that are not resilient to short-term high temperatures (134). Heatwaves are causing higher rates of mortality, and those most likely to suffer are the very young, the elderly and people with chronic conditions like asthma (135). The record breaking heatwave in the UK in 2022 resulted in an 'all time high' level of heat-related mortality (132). There are also concerns reported about water scarcity associated with climate change and population growth, with the National Audit Agency saying that demand will outstrip supply of water by 2034 (136,137).

Flooding and storms can also have a significant financial and health costs, including to the mental health of people whose homes are affected (138). The Environment Agency estimates that 5.2 million properties in England are at risk of flooding (139). It is evident that flood and coastal management is fundamental in climate change adaptation. Yet, the latest UK Committee on Climate Change adaptation review (2023) indicated that:

*Most plans for new developments do not thoroughly regulate or track adaptation for future climate resilience and there are no clear mechanisms to monitor and mitigate the effects of urban heat islands. Plans to ensure developments at the coastline are protected remain non-statutory, and there is insufficient funding to enable affected communities to adapt (132).*

Despite these findings, legislation requires that development must account for the mitigation and adaptation to climate change. The amended Section 182 of the **Planning Act 2008** states that:

*Development plan documents must (taken as a whole) include policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change (140).*

This sets a statutory duty for plan-makers to ensure that development is designed to be climate resilient. Additionally, the **Flood and Water Management Act 2010** sets out the organisational responsibilities for managing flood risk. This includes the development, maintenance, application and monitoring of flood risk management strategies by the Environment Agency at the national level and by a flood authority at the local level (141).

Building Regulations Approved Document G provides guidance for compliance on sanitation, hot water safety and energy efficiency along with an optional of water-use standard of 110 litres/person/day and a water-efficiency calculation methodology for new dwellings (142). This

does not include guidance on future-proofing homes to extreme weather, such as flood and storm risk, or undertaking other climate preparedness measures. Building Regulations Approved Document O has been updated to address overheating in new homes but there is no policy that addresses overheating in existing homes and buildings (132).

The National Design Guide and National Model Design Code contain voluntary guidance on climate resilience. This includes identifying measures to achieve climate mitigation and adaptation or suggesting that local planning authorities include climate resilience in their vision statement, respectively (109,110). Chapter 14 (Meeting the challenge of climate change, flooding and coastal change) of the NPPF focuses on climate change, but its policies are only material considerations and thus not mandatory. Similarly, the PPG on climate change and the PPG on flood risk and coastal change advise on climate risk adaptation and mitigation, but this guidance is not mandatory(143,144). Although, it is noteworthy that the PPG on flood risk and coastal change states that: *'Flooding prior approvals require consultation with the Environment Agency where the development is in an area within Flood Zone 2 or Flood Zone 3, or in an area within Flood Zone 1 which has critical drainage problems'* (144).

The guidance in the PPG on flood risk and coastal change is a material consideration in planning and therefore not for PD proposals. However the Environment Agency is a statutory consultee regarding flood risk for prior approval conditions. Applications for prior approval in areas of flood risk must be accompanied by a flood risk assessment for the site as set out in the GPD Order 2015 (24,144).

#### Summary of PD implications

Change of use developments are not required to conduct a flood risk 'sequential test' according to guidance published by the government (145). The sequential test requires a planning applicant to compare a proposed site with alternative sites to see if the alternative sites have lower flood risk. This means that PD buildings are not required to be compared against alternative lower risk options if they are located in a higher risk flood zone unless deemed necessary in the prior approval process.

For conversion of Class E commercial buildings, the condition MA.2. (2)(c) in the TCP (GDR) Order (amendment) (2021), states that the developer must apply to the LPA to determine whether prior approval is required regarding *'flooding risks in relation to the building'* (146). This also applies to most building class PD categories, except Class L – conversion of small HMOs to dwellinghouses. Importantly, the overheating considerations in Approved Document O do not currently apply to PD conversions.

#### 4.9 Safety from crime

The impacts of crime on a neighbourhood can be detrimental, and it is imperative to consider this in the design process. The government's Safer Places guide states that most crime reduction through the planning system is delivered through crime prevention (147). When homes are purposely designed to deter crime, not only are communities safer, but it supports health and wellbeing benefits too, as neighbourhood crime can be a contextual predictor of mental health (148).

In the NPPF, chapter 8 (Promoting healthy and safe communities) states that planning policy must ensure that crime does not undermine the quality of life or community cohesion of a place:

*Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:... are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of attractive, well-designed, clear and legible pedestrian and cycle routes, and high quality public space, which encourage the active and continual use of public areas...(29).*

Development proposals submitted for planning permission should consider this policy but it is not binding to do so. Along with the NPPF, the National Design Guide also recognises the importance of the planning system in creating safe communities with its voluntary guidance. This is identified in policy P2 which calls for the provision of well-designed spaces that promote safety (109). The National Model Design Code recognises that it is essential to create places that is feel safe and secure, especially for society's most vulnerable (110). The PPG on healthy and safe communities recommends that designing out crime in development is crucial to promote health and wellbeing (149).

Safety from crime is referenced in building regulations Approved Document Q (Security in dwellings). It sets the requirement that: '*Reasonable provision must be made to resist unauthorised access to – (a) any dwelling; and (b) any part of a building from which access can be gained to a flat within the building*'(150). The guidance on this policy is focused on windows and doors and not the wider aspects of urban design and community safety concerns. This requirement also only applies to new dwellings, and as homes created through PDR are derived from existing buildings, it can be inferred that building regulations do not apply in these cases.

Secured by Design (SBD) is an official police security initiative that provides guidance to improve the security of the buildings and their immediate surroundings. It offers an independent certification that goes beyond the level of security called for within Approved Document Q of the Building Regulations (151). The guidance and/or certification offered by SBD is voluntary, so although it can be required by local plan policies this will not apply to dwellings created through PDR as they bypass many of requirements of the planning system, unless specific as a prior approval design condition.

The HHSRS includes *Entry by intruders* within its list of hazards, and lists various preventative design measures that might minimise this risk. It states that '*The dwelling itself should be capable of being secured against unauthorised entry, which will both delay and deter intruders and will make the occupants feel safer. The design of the building and its curtilage should include clearly defensible space.*' (112)

#### Summary of PD implications

It is not clear that the statutory guidance within Approved Document Q of the Buildings Regulations applies to residential conversions created through PD as they are derived from existing buildings. Additionally, while guidance such as Secured by Design can be required by some local authorities within their local plan, that will not apply to dwellings created though PD unless it is specified as a design-related condition through prior approval.

#### 4.10 Prevent indoor and ambient air pollution

Ambient and indoor air pollution is the greatest environmental public health threat in the UK, as it is associated with approximately 28,000 to 36,000 annual deaths and costs the NHS £43 million each year (152,153). Poor indoor air quality has been linked to lung diseases and

increased risk of heart disease and stroke (154). The health impacts are widely documented, and provisions must be made to ensure new homes minimise air pollution and do not contribute to unsafe levels.

The Air Quality (England) Regulations 2000, or Part IV of the Environment Act 1995, require local authorities to review the quality of air within their area (155). This duty is imposed by the Secretary of State. The Air Quality Strategy sets out air quality standards, objectives, and measures for improving ambient air quality for local authorities every five years to fulfil the statutory requirement imposed by the Air Quality (England) Regulations 2000 (156). While local authorities have responsibility in maintaining and/or approving air quality, they can also include developer requirements to minimise pollution and enhance air quality in local plan policies (157). However, such air quality policies do not clearly apply in relation to housing conversion under PD.

Under Building Regulations Approved Document C (site preparation and resistance to contaminants and moisture) air quality and contaminants are considered. However, not all requirements are applicable in cases of material change of use (MCU). In these cases, Document C only requires C.2 (interstitial and surface condensation) to be met for dwellings and not flats (42). Furthermore, air quality is not directly considered:

*In the First Secretary of State's view the requirements of C2 will be met if the floors, walls and roof are constructed to protect the building and secure the health and safety of persons in and about the building from harmful effects caused by:*

- a. moisture emanating from the ground or from groundwater;*
- b. precipitation and wind-driven spray;*
- c. interstitial and surface condensation; and*
- d. spillage of water from or associated with sanitary fittings and fixed appliances (158).*

Building Regulations Approved Document F (ventilation) pertains to indoor air quality and sets standards to ensure that an adequate means of ventilation is provided to minimise the intake of external pollutants (159). Changes to Approved Document F require that energy efficiency measures do not worsen ventilation and that replacement windows are fitted with a background ventilator unless it can be proven that ventilation has not been worsened.

Chapter 15 of the NPPF (Conserving and enhancing the natural environment) states that air quality should be considered in development, taking into account the presence of air quality management areas and clean air zones, and calls for the identification of opportunities to improve air quality and mitigate impacts through measures such as travel management, and green infrastructure provision and enhancement (29). However, the policies of the NPPF apply to through the planning system and so do not apply to PD dwellings.

Similarly, the National Design Guide and the Model Design Code state the importance of preserving and/or improving both indoor and ambient air quality. The PPG on air quality and land affected by contamination also offers guidance on these issues (157,160). Yet, like the policies of the NPPF, these guidance documents are voluntary as they are recommendations and guidance not mandatory requirements, although land contamination can be considered in the prior approval process. Relatedly, the HHSRS lists 'pollutants (non-microbial)' as a hazard, this

includes: asbestos, biocides, carbon monoxide and fuel combustion products, lead, radiation, uncombusted fuel gas and volatile organic compounds (112).

#### Summary of PD implications

Air quality requirements in PD are patchy as much of the guidelines vary on a case-by-case basis. Elements of indoor air quality are considered by Approved Document F of the Building Regulations, as an adequate means of ventilation is required for all habitable development (159). The NPPF and National Design Guide and the Model Design Code consider air quality across many policies, but they are not mandatory.

#### 4.11 (A) Limit light pollution

Light pollution is also detrimental as it adversely impacts the natural circadian cycle. The environmental charity CPRE reports that prolonged exposure to light pollution can lead to depression, sleeplessness and heart and blood problems (161).

Material but non-mandatory considerations in NPPF Chapter 15 (Conserving and enhancing the natural environment) offers guidance on light pollution, although the language is weak with the use of 'should' and not 'must'. For example, paragraph 185 states that, '*Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution*' and should '(c) *limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation*' (29).

Similarly, the PPG on light pollution advises how the planning system can consider light pollution.(162) This includes what the relevant contributing factors are to light pollution as well as signposting to other information to inform approaches to reduce light pollution. This guidance is a material consideration, and therefore does not apply in relation to PD proposals, unless specified as a design-related prior approval condition.

The Clean Neighbourhoods and Environment Act 2005 lists exterior lighting as a statutory nuisance that local councils can take legal action against (163). However, this does not include all forms of light pollution. There is no current national government strategy to manage light pollution. The government's 25 Year Environment Plan only briefly mentions light pollution with no specific targets (164).

#### Summary of PD implications

Government guidance on limiting light pollution does recognise the role of the planning system in this, but the language is often weak and non-committal. In PD, there are no clear requirements set for managing light pollution. Councils can take action on exterior lighting that is considered a statutory nuisance, including for dwellings created using PD, but this does not apply to all forms of light pollution (163). Councils may refer to light pollution as a design-related prior approval condition but it is unclear the extent to which that has been applied (163).

#### 4.11 (B) Limit noise pollution

Findings by the World Health Organisation (WHO) state that noise is the second largest environmental cause of health problems, just after air pollution, and it can result in increased risk for sleep disturbance, cognitive impairment in children and negative effects to the cardiovascular and metabolic system (165). Despite these findings, noise pollution has been

described as a ‘neglected pollutant’ since it is poorly regulated and its effects on health are often disregarded (164).

The 2010 Noise Policy Statement for England (NPSE) sets out the government’s long-term vision for noise management policy within sustainable development (166). In a report published by the House of Lords by the Science and Technology Select Committee, Stephen Turner, who was involved in drafting the NPSE, states that: ‘*There has been an inconsistency between local policy and national policy. We need to re-emphasise to people that this is the policy and it should be used to direct our noise management*’ (164). DEFRA is currently investing in a noise mapping system, however, to effectively reduce noise pollution, standards to measure progress against are needed. The government’s 25 Year Environment Plan only briefly mentions noise pollution with no specific targets to address the issue (164).

Building Regulations Approved Document E set sound standards for new builds and conversions that must be met through sound testing (167). Building Regulation Approved Document O also considers the impact of noise and the opening of windows to address overheating during sleeping hours (168). Additionally, the HHSRS lists noise as a category 1 hazard, regarding the health effects of excessive noise pollution. It outlines that in some situations Building Regulations may be insufficient:

*The assessment should concentrate on the ability of the dwelling to protect the occupants from noise penetrating from outside the dwelling. The design and construction of the dwelling should protect the occupants from ordinary domestic noise from one dwelling entering another, and from traffic or other ambient external noise.*

*It is more appropriate to assess the noise levels within the dwelling than to measure the performance of the building as this will take into account the noise conditions of the immediate environment. (In some situations the minimum required by the Building Regulations will be insufficient. Measurement of noise levels using properly calibrated noise meters can be helpful to confirm the subjective assessment. (112)*

NPPF Chapter 15 (conserving and enhancing the natural environment) offer guidance on noise pollution, although the language is weak, with the use of ‘should’ and not ‘must’. This is seen in paragraph 185:

*Planning policies and decisions should ...:*

- (a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;*
- (b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason... (29).*

The PPG on noise includes a section on the implications the guidance has on PD prior approval conditions. It states that prior approval conditions can be applied regarding noise management in accordance with GPD Order 2015 for certain use classes of buildings but not for Class M

(laundrettes; betting offices; pay day loan shops; hot food takeaways; mixed-use), Class N (amusement arcades and Casinos); Class O (offices), Class PA (light industrial use) (169). Therefore, the PPG to consider noise management can be applied through the prior approval process for housing developments under PD for specific use classes, if required by local authorities, and only in relation to specific use classes outlined in GPD order 2015<sup>x</sup>.

Additionally, councils are required to investigate complaints about noise that may be considered a statutory nuisance. This follows the Environmental Protection Act 1990 which states for noise to count as a statutory nuisance it must either: 'unreasonably and substantially interfere with the use or enjoyment of a home or other premises' or 'injure health or be likely to injure health' (170).

#### Summary of PD implications

Building Regulations Approved Documents E and O both consider noise pollution and management and may be applicable for buildings converted through PD depending on circumstances.

Regarding prior approval conditions, noise management can be considered but only of certain building use classes and is not included in the following use classes: Class M (certain uses: laundrettes; betting offices; pay day loan shops; hot food takeaways; mixed-use), Class N – specified sui generis uses (amusement arcades and casinos); Class O (offices), Class PA (premises in light industrial use). In addition, current policies do not appear to consider the implications for PD conversions located near sources of noise pollution, such as proximity to major roads.

Noise is considered a statutory nuisance if it meets the criteria set out in the Environment Act 1990. In these cases, including for PD dwellings, local authorities must investigate these noise complaints.

#### 4.12 Thermal comfort

With the changing climate and increased occurrence of extreme weather events, it is imperative that our new homes provide year-round thermal comfort for residents. Poor thermal comfort undermines sleep quality and exacerbates cardiac, pulmonary and respiratory conditions (171,172). Over 700,000 homes in England were found to be 'excessively cold' in the winter (173). In addition, poor insulation and limited ventilation also means that many homes are overheating in the summer. Over half of the UK housing stock (55% or 15.7 million homes) currently fails the bedroom overheating criterion, and an estimated 791 excess deaths are associated with overheating every year in England and Wales (174,175).

Building Regulation Approved Document O sets standards for overheating in new residential developments and states it does not relate to buildings undergoing change of use (176,177). Standards on the efficiency of residential heating can be found under Building Regulation Approved Document L Energy Efficiency (178). Approved Document L does not meet net zero targets (to cut emissions by 78% by 2035 compared to 1990 levels and net zero by 2050) (179).

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<sup>x</sup> Noise pollution can be address in the following use classes: Class MA (commercial, business and service uses); Class P – storage or distribution centres; Class Q (agricultural). Noise pollution is not included as a possible prior approval condition in the following use classes: Class M (certain uses: laundrettes; betting offices; pay day loan shops; hot food takeaways; mixed-use), Class N – specified sui generis uses (amusement arcades and casinos); Class O (offices), Class PA (premises in light industrial use)

The Decent Homes Standard and associated HHSRS refers to proving a '*reasonable degree of thermal comfort*' within its definition of what constitutes a decent home along with the requirements to meet this criterion (180). While social housing is required to meet the requirements of the Decent Homes Standard, PRS is not required to do so at the time of writing (February 2024).

The National Design Guide and National Model Design Code offer voluntary guidance in relation to thermal comfort of residents (109) but they are not mandatory requirements, and might only apply to PD conversions through design-related prior approval requirements. The Chartered Institute of Building Services Engineers (CIBSE) has also released guidance, TM59, that offers a methodology to assess overheating in homes that are predominantly naturally ventilated. It consists of criterion that both measures the percentage of occupied hours that exceed the target temperature based on the external temperature and the number of hours that bedrooms exceed 26 degrees Celsius at night (181). In a report by ARUP, commissioned by the Climate Change Committee, it was revealed that with the current weather conditions, half of UK homes suffer from overheating risk, based on TM59 criteria, and the risk runs highest in London and the south of England (182).

#### Summary of PD implications

Landlords and investors in the PRS do not currently need to meet the Decent Homes Standard regarding thermal comfort. And it is not clear if this will apply to homes created through PD. The government consultation on Future Homes and Buildings Standard states that Building Regulations Approved Document O on Overheating does not apply to PD properties (under 'MCU' dwellings) (130).

#### 4.13 Affordable homes and secure tenure

The provision of genuinely affordable housing, i.e. housing with rent / mortgage costs based on average incomes and not average market rates<sup>y</sup>, is an important for individual and social health. Genuinely affordable housing supports many social objectives that allow people to thrive, including reducing health inequalities. A review by the National Housing Federation found that the provision of affordable social housing can result in: improved self-rated health, prevention of crime, improved labour market outcomes, higher life satisfaction, with good housing creating conditions for better educational outcomes and community cohesion (183). This also applies to ensuring security of housing tenure, which refers to the need for legal protections for residents against harassment, forced 'no-fault' evictions, excessive tenancy fees, uncertain duration of tenancies and other threats. One review found that greater tenure security can 'boost economic mobility, improve housing and environmental conditions including reduced exposure to pollution, create safer and more resourced communities, and improve physical and mental health' (184). Human rights law mandates that everyone must possess a degree of legal tenure protections, as stated by the United Nations (185).

Section 106 agreements under the **Town and Country Planning Act 1990**, are legal agreements between a planning authority and developer to ensure specified extra works are delivered with a housing development. This can include ensuring a certain proportion of homes in a housing development are affordable (i.e. social housing or shared-ownership housing). It is

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<sup>y</sup> As defined by the Healthy Homes Bill: genuinely affordable housing should be "affordable to those on average and below-average household incomes" [Healthy Homes Bill \[HL\] \(parliament.uk\)](#)

estimated that 49% of homes completed by housing associations in 2021-2022 were funded through section 106 agreements (186). However, these agreements are negotiated through the planning application process so do not apply to homes from PD conversion. The community infrastructure levy (CIL) is a charge levied by local authorities on new developments to help authorities deliver additional services needed to support that development. The CIL level is defined by local evidence and economic viability, and can be spent on a range of local infrastructure including transport, flood defences, schools, hospitals and other health care facilities. It does not apply to affordable housing provisions (187).

The NPPF does consider the role that developer contributions have in securing affordable housing. Chapter 3 (plan-making) calls for local plans to include affordable housing contributions from development, along with other infrastructure (29). The size of the developer contributions is likely to vary regionally. In places where land values are lower the levels of developer contributions to affordable housing and other local amenities will be correspondingly lower than in places with high land values, such as London and the south east. (188). The NPPF also expects strategic policy-making authorities to undertake a housing and economic needs assessment. This includes following the standard procedures provided by government guidance to calculate the need for affordable housing and the current supply of affordable housing (189). Again, policies within the NPPF do not apply to new housing created through PD conversion.

There is some legislation that contains limited protective measures to support housing security for tenants. This includes the **Protection from Eviction Act 1977** – which gives local authorities enforcement powers to address illegal evictions by landlords, where a landlord can be subject to pay rent, a fine or imprisonment or up to two years if found at fault. Private tenancies are governed by the **Housing Act 1988** – which currently includes the right of landlords to use ‘no-fault’ evictions under section 21 of the act, and apply section 8 of the act, which allows repossession of properties due to rent arrears. Improved tenant rights are considered in the **draft Renters (Reform) Bill**, which seeks to remove landlords’ right to use ‘no-fault’ evictions. Although at the time of writing [early 2024], it has not passed into legislation(190). The **Tenant Fees Act 2019** bans any fees for tenants except those allowed by the act (‘allowable fees’ include: holding deposits, rent deposits and charges for defaulting on contracts) – breaches of the terms of the act can incur fines from the local trading standards board for a first time offence, and subsequent breaches are criminal offences, with fines up to £30,000 in civil penalties (191). The **Homes (Fitness for Human Habitation) Act 2018**, includes provisions to protect tenants in relation to the quality of buildings (e.g. stability of structure, ventilation, damp, excess cold or heat, overcrowding) but not regarding their tenancy rights or affordability. The Homes Act 2018 also does not cover people with ‘licences to occupy’ instead of tenancy agreements, e.g. lodgers and some people in temporary accommodation (192).

#### Summary of PD implications

PD does not require developer contributions to affordable housing through section 106 agreements or the community infrastructure levy (CIL) which are both negotiated through the planning application process. Therefore, contributions towards local affordable housing need and community amenities will be reduced as PD bypasses these elements of the planning system. Although changes to CIL are proposed in the **Levelling Up and Regeneration Act 2023** which may apply to PD conversions, the detail about how that will work will have to come through in secondary legislation. Regarding tenure security, the **Renters Reform Bill** should

protect all tenants housed in private rental and temporary accommodation that is PD from section 21 ‘no-fault’ evictions, but the bill has yet to be enacted. The **Homes Act 2018** does not cover tenants with ‘licences to occupy’ including some tenants housed in temporary PD accommodation.

# 5 Conclusions and next steps

## 5.1 Overview

Homes created through permitted development are not subject to national and local planning policies or guidance: the quality of these homes relies on the fact that they must comply with building regulations and prior approval matters. However, this research has found that there is considerable complexity, lack of clarity, gaps and uncertainty regarding which specific building regulations apply to which specific types of PD conversion.

The current PD rules are highly complicated and difficult for anyone to understand and therefore implement. In particular, it is very difficult for LPAs and regulators – whose oversight over permitted development is already highly limited – to shape the quality of homes and communities that are produced under the current regulations.

It should be noted that the expansion of PD rules to include the conversion to residential use was never about creating homes that would support the health of residents: it was motivated by the government's desire to cut through 'red tape' and speed up the creation of new homes.

This desk-based research suggests problems with the way that building regulations and housing law applies – or do not apply – to homes created through PD does not necessarily mean that the homes that are created through this route will be sub-standard. However, the limited range of levers available to local authorities and regulators does create potential opportunities for developers to cut corners and increase the risk of poor outcomes in terms of housing quality and the consequent health of occupants. We have also identified various loopholes in building regulations for residential properties that are produced from converted buildings (or 'material change of use'). In particular, there are gaps regarding structural safety, accessibility, and protection from falling under current guidance on material change of use.

The next phase of this research project will examine a representative sample of homes that have been built through permitted development to assess them against a range of health indicators to discover whether there are, in fact, problems with the quality of homes being produced. It will also look to further understand the national and local policy and regulatory levers that are adopted to try and manage the quality of homes produced through PD.

## 5.2 National policy and regulation

The review of national policy and regulations, in general and through the lens of the Healthy Homes principles in detail, reveals that there is often a lack of clarity and variation for different classes of buildings that are being converted. This complexity raises the risk that regulators and developers may not think they need to address important regulatory or policy requirements. Furthermore, there are concerns about the enforcement of building regulations within new homes created through PD, which may not be followed up due to a lack of local resources.

This review used the TCPA's evidence-based Healthy Homes Principles as a lens through which to consider the application of policies and regulations regarding homes created through permitted development. Appendix 1 outlines the main policies that relate to each of the Healthy Homes principles reviewed and potential implications regarding permitted development changes. These findings are summarised in Table 3 below. We find that only one of the principles is clearly addressed through current planning policy and regulations.

Particular gaps have been identified in relation to whether PD dwellings are required to address principles regarding:

- Inclusive, accessible and adaptable homes;
- Access to amenities, public transport and green space;
- Safety from crime;
- Light pollution;
- Thermal comfort; and
- Affordable housing.

A further six principles were partially addressed through building and housing regulations but lacked clarity in certain aspects, notably:

- Fire safety;
- Access to natural light;
- Reductions in carbon emissions;
- Climate resilience;
- Air pollution (ambient and indoor); and
- Noise pollution.

The only Healthy Home Principle that is clearly addressed through the current PD regime is regarding the provision of liveable space.

**Table 3. Overview of the policy implications of PD regime and the delivery of Healthy Homes principles.**

Healthy Homes principle	Do policies and regulations clearly address PD dwellings regarding delivery of the principle?		
	Unclear	Partially addressed	Clearly addressed
Fire safety			
Liveable space			
Inclusive, accessible, adaptable			
Access to natural light			
Access to amenities, transport and nature			
Reductions in carbon emissions			
Safety from crime			
Climate resilient			
Prevent air pollution			
Limit light pollution			
Limit noise pollution			
Thermal comfort			
Affordable housing			

The next phase of the research will include interviews with representatives from government departments and regulators, e.g. the Homes and New Homes Ombudsman, to gain an understanding of their views of the scope and efficacy of current national planning policy and building, health and housing regulations.

### 5.3 Local levers to shape PD

There has been limited research regarding how local authorities are adjusting the way they manage and regulate the quality of homes following the expansion of PD rights. This suggests there is a need to further examine this question, specifically regarding how widely LPAs in England are using regulatory levers to seek to manage the quality and location of PD conversions, including: prior approval conditions; article 4 directions; and Section 257 of the Housing Act 2004 regarding HMOs licencing and management.

There has also been limited research regarding how residents (in different tenures of housing) seek to influence the quality of PD homes they are living in. For example, understanding the routes adopted by people in social and private rental to shape the quality of their PD homes, as compared to those people housed in PD under temporary accommodation.

Furthermore, there are concerns about problems with the local enforcement of regulations that seek to protect tenants, including ‘wilful ignorance’ of the law by landlords, as well as regarding the capacity of LPAs and regulators to enforce requirements – and not just for those living in properties produced under PD (63). The efficacy of enforcement will also need to be further unpacked in the next stage of the PD research: to consider the degree to which existing regulatory levers are used and, if not, what are the reasons and /or barriers preventing their effective application.

### 5.4 Next steps

This study is being used to inform the research project, ‘Investigating the Potential Health Impacts of Planning Deregulation: the case of permitted development in England’.<sup>7</sup> Over the next year, we will be consulting with local authorities across England to understand their experiences of trying to manage PD residential conversions.

#### 5.4.1 Follow-up questions

The next stage of the research will seek to examine (through focus groups and interviews with LPAs, building control, Environmental Health teams) the following questions:

1. How do authorities keep track of the scale, location and type of buildings undergoing PD conversion in their area?
2. What are LPA views on the use of article 4 directions and prior approval conditions (UCL’s 2020 report found inconsistency in practice, e.g. whether any conditions at all were put onto a prior approval, how different building use class were dealt with, whether buildings were treated as ‘prior approval not required’ or ‘prior approval required and granted’).
  - How are article 4 restrictions being applied locally?
  - What types of prior approval conditions are LPAs seeking to apply to PD conversions?
  - Do these prior approval conditions relate specifically to any of the Healthy Homes principles, particularly those principles that lack clarity or are only partially addressed (i.e. all the principles except space provision)?

3. Are there other regulatory levers or actions, (e.g. through building regulations and environmental health, S257 of the Housing Act 2004) that the LPA have applied when seeking to manage the quality of PD conversions that are being produced?
4. How effective are the current regulatory levers perceived to be in shaping the quality of PD dwellings that are produced?
5. What are the factors that may limit the application of such levers to shape / manage the quality and location of PD conversions? e.g. negligent landlords / developers, under-resourcing of enforcement?
6. How do LPAs work with different types of residents living in housing created through PD (i.e. those living private rental accommodation, those housed in temporary accommodation) to ensure they are living in decent conditions?
7. What are LPAs views of government proposals to further extend PD rights:
  - To remove the size threshold on commercial buildings (currently 1500m<sup>2</sup>);
  - To remove the vacancy time threshold (currently three months);
  - To include hotels and hostels;
  - To extend PD conversion to buildings in protected areas, such as national parks.
8. LPA departments have been reported to be quite siloed. Are there mechanisms / opportunities to join up work by planning, building control and environmental health (housing enforcement) teams in relation to monitoring PD conversions and taking action to manage them?
9. How is enforcement of building regulations and housing standards currently being managed in relation to PD?

# Appendix 1: Summary of key policies relating to Healthy Homes principles and PD

HH Principle	Key policies / regs / guidance	Impact / change due to Permitted Development (PD) policies
<b>1. Fire safety</b>	<ul style="list-style-type: none"> <li>➤ Building Regs. Approved document B: Fire safety</li> <li>➤ Building Safety Act 2022</li> <li>➤ Planning Gateway one – Fire safety statement regarding access for emergency vehicles</li> <li>➤ Fire Safety (England) Act 2022</li> </ul>	<ul style="list-style-type: none"> <li>• Approved document B: Highrise offices / commercial buildings require at least two stairwells; residential only require one.</li> <li>• PD should not include changes to the exterior that might improve fire safety, e.g. changes to cladding, otherwise it will require planning consent</li> <li>• It is unclear if Planning Gateway one ‘Fire Safety Statement’ is required</li> <li>• Buildings below the 18m / seven story threshold are not required to undertake the same level of risk mitigation e.g. regarding fire doors and external wall design.</li> </ul>
<b>2. Liveable space</b>	<ul style="list-style-type: none"> <li>➤ NPPF Chapter 12. Achieving well-designed places</li> <li>➤ National Design Guide and National Model Design Code</li> <li>➤ The Town and Country Planning (General Permitted Development) (England) (Amendment) Regulations 2020</li> <li>➤ Nationally Described Space Standard (NDSS)</li> <li>➤ Homes with Multiple Occupancy – Housing Act 2004, and Housing and Planning Act 2016</li> <li>➤ Overcrowding Standard – Part X, Housing Act 1985</li> </ul>	<ul style="list-style-type: none"> <li>• NPPF policies, and NDG/NMDC are material considerations in the planning process but not mandatory and do not apply to PD homes</li> <li>• NDSS is not mandatory</li> <li>• TCP (GPD) (England) (Amendment) (2020) includes minimum space provisions (note: these requirements are not mandatory for other new homes)</li> </ul>
<b>3. Inclusive, accessible, adaptable</b>	<ul style="list-style-type: none"> <li>➤ Equality Act (2010)</li> <li>➤ Building regs. Approved document M4 (1) access (<i>mandatory</i>), M4(2) use of buildings and; M4(3) Wheelchair Access (<i>both optional for LPAs to apply in local plans</i>)</li> <li>➤ National Design Guide and National Model Design Code</li> <li>➤ Guidance: Lifetime Homes / Neighbourhoods standard</li> </ul>	<ul style="list-style-type: none"> <li>• Equality act (2010) applies to social housing</li> <li>• NPPF policies, and NDG/NMDC are material considerations in the planning process but not mandatory and do not apply to PD homes</li> <li>• Approved document M4 (1) Access to Dwellings; M4(2) on Access and adaptability; and M4(3) Wheelchair access are not reflected in PD conversions.</li> </ul>
<b>4. Access to natural light</b>	<ul style="list-style-type: none"> <li>➤ National Design Guide and National Model Design Code</li> <li>➤ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)</li> </ul>	<ul style="list-style-type: none"> <li>• NDG/NMDC are material considerations in planning but not mandatory and do not apply to PD homes</li> <li>• 2021 change only to ‘natural light’ not provision of windows or ideally dual aspect windows. PD does not allow changes to exterior – otherwise planning permission is required</li> </ul>

	<ul style="list-style-type: none"> <li>➤ The Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021</li> <li>➤ BRE daylight standard</li> </ul>	<ul style="list-style-type: none"> <li>• BRE standard is voluntary, unless required by LPA via prior approval</li> </ul>
<b>5. Access to amenities, transport and nature</b>	<ul style="list-style-type: none"> <li>➤ NPPF: Chapter 8. Promoting healthy and safe communities. Chapter 9. Promoting sustainable transport. Chapter 12. Achieving well-designed places; Developer contributions (S106 &amp; CIL)</li> <li>➤ National Design Guide and National Model Design Code</li> </ul>	<ul style="list-style-type: none"> <li>• NPPF policies, and NDG/NMDC are material considerations in planning but not mandatory and do not apply to PD homes</li> <li>• PD conversions do not tie-in with local plan designations, and developers in PD are not required to make contributions to local amenities and infrastructure</li> <li>• Concerns about loss of high street retail and harm to local economy through PD conversions, unless LPA applies Article 4 to specified areas<sup>z</sup></li> </ul>
<b>6. Reductions in carbon emissions</b>	<ul style="list-style-type: none"> <li>➤ NPPF: Chapter 9. Promoting sustainable transport; Chapter 14. Meeting the challenge of climate change, flooding and coastal change</li> <li>➤ Building regs: Approved document L. Conservation of fuel and power; and new requirements</li> <li>➤ Climate Act 2008</li> <li>➤ The Future Homes and Building Standards (from 2025): All new homes will produce 75-80% less carbon emissions than current regulations</li> </ul>	<ul style="list-style-type: none"> <li>• NPPF and NDG/NMDC policies are material considerations in the planning process but are not mandatory and do not apply to PD homes in relation to energy efficiency and carbon reductions</li> <li>○ Approved document L changes do not meet new 2035 and 2050 net zero targets</li> </ul>
<b>7. Safety from crime</b>	<ul style="list-style-type: none"> <li>➤ NPPF: Chapter 8. Promoting healthy and safe communities</li> <li>➤ National Design Guide and National Model Design Code</li> <li>➤ Building Regulations Approved Document Q (security)</li> <li>➤ Guidance: Secured by Design standard</li> </ul>	<ul style="list-style-type: none"> <li>• NPPF and NDG/NMDC policies are material considerations in the planning process but are not mandatory and do not apply to PD homes</li> <li>• Approved document Q: focused on windows and doors- not the wider aspects of urban design and community safety concerns.</li> <li>• The 'Secured by Design' standard is voluntary. It may be required by local plans – but won't apply to PD unless required by prior consent in relation to design</li> </ul>
<b>8. Climate resilient</b>	<ul style="list-style-type: none"> <li>➤ NPPF: Chapter 14. Meeting the challenge of climate change, flooding and coastal change</li> <li>➤ National Design Guide and National Model Design Code</li> <li>➤ PPG Flood assessment</li> </ul>	<ul style="list-style-type: none"> <li>• NPPF policies, PPG, and NDG/NMDC are material considerations in the planning process but not mandatory and do not apply to PD homes</li> <li>• PD are not required to conduct a flood risk 'sequential test' <a href="#">Flood risk assessment: the sequential test for applicants - GOV.UK (www.gov.uk)</a></li> <li>• Policies do not cover other climate adaptation issues, e.g. increased storms, increased drought risk, impacts to biodiversity and green infrastructure</li> </ul>

<sup>z</sup> 80% of shops on high streets could be lost to PDRs ([tcpa.org.uk](http://tcpa.org.uk))

<b>9. Prevent air pollution</b>	<ul style="list-style-type: none"> <li>➤ NPPF: Chapter 15. Conserving and enhancing the natural environment.</li> <li>➤ National Design Guide and National Model Design Code</li> </ul> <p>Ambient air pollution (external environment):</p> <ul style="list-style-type: none"> <li>➤ The Air Quality (England) Regulations 2000</li> </ul> <p>Indoor air pollution</p> <ul style="list-style-type: none"> <li>➤ Build regs. Approved document C: Site preparation and resistance to contaminants and moisture; Approved document F ventilation;</li> </ul>	<ul style="list-style-type: none"> <li>➤ NPPF policies, and NDG/NMDC are material considerations in the planning process but not mandatory and do not apply to PD homes</li> <li>➤ Approved documents C and F: changes to F relate to ensuring that energy efficiency measures do not make ventilation any worse, and replacement windows are fitted with a background trickle ventilator, unless proven that the ventilation was not made worse.<sup>aa</sup></li> <li>➤ Building regs apply for indoor air quality / ventilation but ambient / outdoor air quality impacts are not clearly addressed</li> </ul>
<b>10 (A) Limit light pollution</b>	<ul style="list-style-type: none"> <li>➤ NPPF: Ch. 15. Conserving and enhancing the natural environment</li> <li>➤ National Design Guide and National Model Design Code</li> <li>➤ The Town and Country Planning (General Permitted Development England Order 2015 as amended</li> </ul>	<ul style="list-style-type: none"> <li>➤ NPPF policies, and NDG/NMDC are material considerations in the planning process but not mandatory and do not apply to PD homes</li> <li>➤ Building regs only includes PD conversions if required under prior approvals</li> </ul>
<b>10 (B) Limit noise pollution</b>	<ul style="list-style-type: none"> <li>➤ Building regs. Approved document E: Resistance to the passage of sound'; Approved document O: Overheating (impact of ambient noise and opening windows)</li> <li>➤ Environment Act 1990 (Noise as a 'statutory nuisance)</li> </ul>	<ul style="list-style-type: none"> <li>➤ Prior approval conditions relating to noise management do not relate to all use classes of buildings converted under PD. It does not include: Class M (Launderettes; Betting offices; Pay day loan shops; Hot food takeaways; Mixed-use), Class N (Amusement arcades and Casinos); Class O (Offices), Class PA (light industrial use)</li> <li>➤ Approved document E would not take into account the potential noise pollution in PD conversions that are located in close proximity to major roads.</li> </ul>
<b>11. Thermal comfort</b>	<ul style="list-style-type: none"> <li>➤ National Design Guide and National Model Design Code</li> <li>➤ Building Regulations Approved document F Ventilation; Approved Document L (conservation of fuel and power; Approved document O Overheating (2022)<sup>bb</sup></li> <li>➤ Decent Homes Standard (DHS)</li> </ul>	<ul style="list-style-type: none"> <li>➤ NDG/NMDC are guidance and not mandatory and do not apply to PD homes</li> <li>➤ Approved document L does not meet net zero targets<sup>cc</sup> (to cut emissions by 78% by 2035 compared to 1990 levels and net zero by 2050).</li> <li>➤ Approved document O on Overheating does not apply to PD homes</li> <li>➤ Private Rented Sector is not required to meet DHS</li> <li>➤ Unclear if social housing/temporary accommodation in PD are required to meet DHS</li> </ul>
<b>12. Affordable housing</b>  <i>(additional Healthy Homes principle)</i>	<ul style="list-style-type: none"> <li>➤ NPPF</li> <li>➤ S106, CIL contributions (due for reform under the Levelling Up and Regeneration Act 2023)</li> <li>➤ Homes (Fitness for Human Habitation) Act 2018</li> <li>➤ Tenant rights – Renters Reform Bill (not yet passed)</li> </ul>	<ul style="list-style-type: none"> <li>➤ NPPF policies are material considerations in the planning and do not apply to PD homes</li> <li>➤ PD does not require S106 / CIL funds for affordable housing and community infrastructure from developer contributions</li> <li>➤ Regional differences in land value (i.e. away from London and South East) the impact the levels of developer contributions to local amenities in areas where land value is low<sup>dd</sup></li> </ul>

<sup>aa</sup> [Changes to Part L, Part F and Part O on ventilation | RIBA J](#)

<sup>bb</sup> [Changes to Part L, Part F and Part O on ventilation | RIBA J](#)

<sup>cc</sup> [UK becomes first major economy to pass net zero emissions law - GOV.UK \(www.gov.uk\)](#)

<sup>dd</sup> [Land Value Capture \(parliament.uk\) \(2018, p18\)](#)

## Appendix 2: Written Ministerial Statements relating to PD

Date	Written Ministerial statement text	Link
24 Jan 2013	<p><b>Three-year PDR pilot:</b> ...In line with best practice on public policy, there will be a sunset clause, limiting the changes to three years and a review of the benefits from the policy at that point. This will provide Parliament with the opportunity to extend the policy indefinitely should it wish.</p> <p><b>Exceptional circumstances:</b>...We will only grant an exemption in exceptional circumstances, where local authorities demonstrate clearly that the introduction of these new permitted development rights in a particular local area will lead to (a) the loss of a nationally significant area of economic activity or (b) substantial adverse economic consequences at the local authority level which are not offset by the positive benefits the new rights would bring.</p> <p><b>Size restrictions:</b>...There will be a size restriction and for conversions above a set size a prior approval process will be put in place to guard against unacceptable impacts, such as transport and noise...</p>	<a href="https://publications.parliament.uk/pa/cm201213/cmhansrd/cm130124/wmstext/130124m0001.htm">https://publications.parliament.uk/pa/cm201213/cmhansrd/cm130124/wmstext/130124m0001.htm</a>
6 Feb 2014 Nick Boles	<p><b>Change of use:</b> new homes statement announces the government's intention to introduce greater flexibility for change of use from offices, agricultural buildings, retail and sui generis uses to residential use, subject to prior approval by the local planning authority. Also calls for 'avoiding disproportionate' use of Article 4 directions.</p>	<a href="https://www.gov.uk/government/speeches/change-of-use-new-homes">https://www.gov.uk/government/speeches/change-of-use-new-homes</a>
6 March 2014 Nick Boles	<p><b>Local planning clarification:</b> Planning Minister Nick Boles clarifies the government's policy on permitted development rights for householders, particularly in relation to the size limits, design standards and neighbour consultation scheme.</p>	<a href="https://www.gov.uk/government/speeches/local-planning">https://www.gov.uk/government/speeches/local-planning</a>
25 March 2015 Eric Pickles	<p><b>Formal PDR extension:</b> We have laid the Town and Country Planning (General Permitted Development) (England) Order 2015 to introduce new permitted development rights from 15 April 2015. These permitted development rights allow more development to take place without the need for a planning application. Where appropriate, the development may require prior approval, allowing consideration by the local planning authority of specific planning matters...</p> <p>The changes we are announcing today include...</p> <ul style="list-style-type: none"> <li>· Increasing housing supply by allowing change of use from some business uses to residential and continuing to allow larger, rear domestic extensions...</li> <li>· The Government will further consider the case for extending the office to residential reforms, which are helping provided more new homes on brownfield land.</li> </ul>	<a href="https://questions-statements.parliament.uk/written-statements/detail/2015-03-25/hcws488">https://questions-statements.parliament.uk/written-statements/detail/2015-03-25/hcws488</a>
6 Feb 2019 James Brokenshire	<p><b>Extending PD:</b> This statement outlined the government's measures to support housing delivery, including extending permitted development rights for upwards extensions of existing buildings, allowing the demolition and redevelopment of commercial sites for residential use, and introducing a new permitted development right for public call boxes.</p>	<a href="https://questions-statements.parliament.uk/written-statements/detail/2019-02-06/HCWS1305">https://questions-statements.parliament.uk/written-statements/detail/2019-02-06/HCWS1305</a>
13 March 2019 James Brokenshaw	<p><b>Additional high street flexibilities:</b> To support the high street we intend to introduce additional flexibilities for businesses. This will be to amend the shops use class to ensure it captures current and future retail models, which will include clarification on the ability of (A) use classes to diversify and incorporate ancillary uses without undermining the amenity of the area, to introduce a new 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 use to an office (B1) and to allow hot food takeaways (A5) to change to residential use (C3)....</p> <p><b>Design and amenity:</b> 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</p>	<a href="#">Written statements - Written questions, answers and statements</a>

	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. ...	
<b>5 Nov 2019</b> <b>Robert Jenrick</b>	...In May 2019 we announced changes to Permitted Development Rights, allowing thousands of homeowners to extend their properties quickly and easily without the need for a full planning application.	<a href="#">Written statements - Written questions, answers and statements</a>
<b>16 Dec 2020</b> <b>Robert Jenrick</b>	<b>Meeting manifesto commitment on 300,000 new homes every year:</b> ...In the months since we consulted, the profound impact of COVID-19 on our towns and cities has become even clearer. It has magnified and accelerated patterns that already existed and while it is too soon to know for certain the scale of the long-term impact, it is very likely to present a generational challenge and opportunity to repurpose more commercial centres, offices and retail spaces into housing and mixed uses.  We recognised these changes in the summer when we brought forward reforms to the Use Classes Order and new permitted development rights to regenerate vacant buildings, to provide the greatest flexibility possible to meet this moment and to repurpose and recycle buildings for public good. These significant changes were enacted at pace and are now available for use by individuals and businesses...	<a href="#">Written statements - Written questions, answers and statements</a>
<b>1 July 2021</b> <b>Robert Jenrick</b>	<b>Access to amenities: Limit scope of article 4 directions:</b> ...In very specific circumstances, local authorities can make Article 4 directions to suspend individual permitted development rights, when justified by robust evidence.  ...The new paragraph 53 of the National Planning Policy Framework will read: <i>The use of Article 4 directions to remove national permitted development rights should: where they relate to change from non-residential use to residential use, be limited to situations where an Article 4 direction is necessary to avoid wholly unacceptable adverse impacts (this could include the loss of the essential core of a primary shopping area which would seriously undermine its vitality and viability, but would be very unlikely to extend to the whole of a town centre)...</i>  Article 4 directions should be very carefully targeted, applying only to those locations where they are necessary to avoid wholly unacceptable adverse impacts. For that reason, I want to make clear that the geographical coverage of all Article 4 directions should be the smallest area possible to achieve the aim of the Article 4 direction. In respect of historic high streets and town centres, this is likely to be the irreducible core of a primary shopping area. It is very unlikely to be applicable to a broad area, and is not expected to be applied to an entire local authority area. Local authorities will need to have robust evidence to justify the Article 4 direction and the area it covers.	<a href="#">Written statements - Written questions, answers and statements</a>
<b>4 Sept 2023</b> <b>Michael Gov</b>	<b>Consultation on further PD changes:</b> To speed up the delivery of new development, we launched a consultation on proposals to make plans simpler, faster to prepare and more accessible. We are also consulting on proposed changes to Permitted Development Rights to turn more existing commercial, agricultural, and other businesses into new homes, as well as changes to farm development, and will consult again in the Autumn on how Permitted Development Rights can better be used to support existing homeowners to extend their homes.  <b>Fire safety:</b> On safety, I announced that 18 metres is the threshold the Government will introduce for second staircases to be included in new residential buildings. This decision will provide clarity to the sector and bring us in to line with other major countries and territories...	<a href="#">Written statements - Written questions, answers and statements</a>
<b>23 Nov 2023</b> <b>Michael Gove</b>	<b>Further PD changes for converting homes into flats:</b> ... Where there are reasonable proposals to reconfigure homes, where the exterior is unchanged, we will make this easier, consulting extensively with the public, councils and MPs on a new permitted development right to streamline planning decisions for homeowners.	<a href="#">Written statements - Written questions, answers and statements</a>

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