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**London Assembly Member
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Secretary of State
Ministry of Housing, Communities and Local Government
2 Marsham Street
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17 April 2020

Dear Secretary of State,

Re. Permitted Development Rights (PDR)

On 18 September 2019, the London Assembly's Planning Committee examined the current impact of permitted development rights (PDR) on London and considered the impact of Government's intention to expand the PDR scheme. I am writing to you with an account of our findings and to seek your response to them.

PDR allow certain changes to a building's use without the need to seek planning permission. The focus of our investigation was on the utilisation of PDR to change the use of a building from commercial/office space to residential units. The investigation therefore looked at the advantages and disadvantages of the scheme for developers, local authorities and Londoners. Alongside this, the investigation sought views on the quality of housing that is produced through the scheme.

In 2018, your department undertook a consultation regarding the usage of PDR to ‘*support the high street and increase the delivery of new homes*’.¹ Subsequently, the Government expanded PDR - in early 2019, amendments were implemented to enable hot food takeaways to be changed to residential use. Your department has also stated an intention to make future changes to allow for upward extensions on commercial and residential buildings to provide for more housing, and develop a PDR that allows commercial buildings to be demolished and replaced with homes.²

As part of its investigation, the London Assembly’s Planning Committee heard testimony from:

- i. Paul Lewin (Planning Policy Team Leader, Brent Council)
- ii. Jack Airey (Head of Housing, Policy Exchange)
- iii. Dr Jessica Ferm (Bartlett School of Planning, University College London)
- iv. Arshad Bhatti (Chief Executive, Apex Airspace)
- v. Julia Park (Head of Housing Research, Levitt Bernstein)
- vi. Henry Smith (Projects and Policy Manager, Town and Country Planning Association).

You will no doubt be aware that the office-to-residential PDR scheme was first introduced in May 2013 for a temporary period of three years, and the scheme was made permanent in 2015.³ Subsequently, numerous concerns have been voiced about PDR. Of the 15,929 new homes built through permitted development in London since 2013, only 71 were defined as “affordable” – just 0.4%.⁴ This may be far lower than if these homes had been built with full planning permission and had to meet local planning policies. In addition, there are concerns about space and quality, which this letter explores; you have rightly put an emphasis on ensuring we build new homes with beauty, but many PDR homes in London fall far below that standard. Meanwhile, the issue of additionality has also been raised as it is not clear how many of the new homes built through PDR are extra, rather than homes that would have been built anyway through normal change of use planning permission.

While the Committee notes these broader concerns, the investigation focused on quality, the balance between residential and office space and related issues of location, and upward expansion. The London Assembly has been following the impact of office-to-residential PDR in London for many years and has raised concerns before. This is due to the quality and affordability of the housing it produces, the damage it does to local economies, the erosion of jobs and how it undermines the viability of our high streets. The Committee believes it would be best for London if such conversions were no longer allowed through Permitted Development, and instead had to secure typical change of use planning permission. However, we understand that you and your Government are committed to existing PDR policy and are looking to expand it further, and the recommendations from this investigation set out ways

¹ Ministry of Housing, Communities and Local Government, [Planning Reform: Supporting the high street and increasing the delivery of new homes](#), 2018

² [The Secretary of State for Housing, Communities and Local Government](#) (then James Brokenshire), 2019

³ RICS, [Assessing the impacts of extending permitted development rights to office-to-residential change of use in England](#), 2018

⁴ Tom Copley, AM, *Slums of the Future: Permitted Development conversions in London*, 2019
<https://www.london.gov.uk/node/52075>

in which permitted development rights could be improved to deliver better outcomes for Londoners.

As a result of this investigation, the Committee is asking your department to:

- 1. Improve the quality of housing by creating a set of standards that developments must meet, regardless of whether they are developed with planning permission or through permitted development rights.**
- 2. Provide guidance to local authorities to ensure that existing office-to-residential developments are not used to house vulnerable people in substandard accommodation.**
- 3. Ensure that prior approvals are not used to undermine building standards.**
- 4. Use powers to ensure that local planning authorities strike the appropriate balance between residential and commercial/office land space demand.**
- 5. Ensure that residential conversions are in appropriate locations, promote a sense of community and that residents have access to transport links, green spaces, and amenities.**
- 6. Ensure that any upward extension PDR scheme does not lead to a deterioration in building safety, quality or aesthetics.**

Quality of housing

The Committee heard from Jack Airey that despite the increase in the number of houses being built due to the scheme, the current scheme contains loopholes. Loopholes that allow for *“some substandard homes.”*

The Committee were made aware by Jack Airey that the homes produced under the PDR scheme tend to be *“at the lower end of the market”*. Henry Smith told the Committee that the *“vast majority”* of housing units created under the scheme are *“studio flats and one-bedroom flats”*, many of which do not comply with space standards. He informed the Committee that there is a lack of *“monitoring or compliance of the homes that are being created, you are seeing overcrowding within these units.”*

Space is a significant issue. Dr Ferm highlighted to the Committee that *“the bottom line is that some of those units are affordable because they are tiny and they are really, really poor quality. [UCL’s] figures at the national scale are that 30 per cent of the units delivered under PD meet national space standards, compared to 94 per cent under planning permission.”*

The Committee was also made aware of concerns that the scheme leads to an undermining of local standards and regulations. Henry Smith informed the Committee of a systemic undermining of local authorities’ resources for enforcement and building regulations through loss of revenue raised through the planning permission process. He spoke to the Committee of an example *“in Croydon, where one of the stairwells was removed through the conversion of the building for 118-unit scheme, leaving only one stairwell left for them all.”*

The overwhelming majority of those speaking to the Committee echoed the words of the Royal Chartered Institute of Surveyors’ (RICS) 2018 report, which stated that *“office-to-*

residential PD has been a fiscal giveaway from the state to the private sector real estate interests, while leaving a legacy of a higher quantum of poor quality housing than is seen with schemes governed through full planning permission.”⁵ Dr Ferm summed this sentiment up for the Committee when she informed the Committee that the “separation of planning and building control and the fact that building control is now essentially privatised, or that there is an option to go through a private provider, means that there are loopholes.” It also results in a loss of control for local authorities as prior permission cannot be refused for these reasons.

Use of poor-quality PDR homes by local authorities

The Committee were also made aware that housing built under the scheme was being offered by local authorities to households in housing need. Julia Park highlighted that some developers under the scheme *“deliberately offer these homes in converted office buildings to local authorities for people on their housing waiting list, and it works because they are the smallest, worst homes in the neighbourhood, and that makes them the cheapest.”*

Ms Park outlined that PDR, either in the form of office conversion or upward extension, risks becoming a form of de facto social housing. She noted that frequently *“it is the worst, smallest, poorest quality developments that are typically being let to people on housing benefit.”* The Committee is deeply concerned that the negative impacts on wellbeing associated with poor quality housing are disproportionately being shouldered by the most vulnerable.

Prior approvals

Many PDR relating to change of use require prior approval from the local planning authority to consent to a limited range of technical aspects of the development, e.g. its siting, design, contamination flood risks, transport and highways issues. Concerns around abuse of this system were highlighted to the Assembly’s Committee. Henry Smith informed us of a trend in which developers obtain prior approval for planning, and then subsequently make changes to these approved plans. Thus, you have within the same building, a set of units that meet planning standards with *“general equality of design”* juxtaposed against *“units that are being built through developments that are 15 square metres and fall below the standards that a local authority would assume and expect in an area.”* This can lead to *“a form of social segregation.”*

Julia Park pointed out to the Committee that developers may place applications for, for example, changing windows to suit a residential layout before seeking permission for residential usage. This can lead to planning authorities being placed in the unenviable position of having to approve the further changes, or risk the developer exercising their prior approval

⁵ Ibid

regardless. Ms Park commented that this represents “a complete full circle of exploiting a loophole.”

Recommendations:

- 1. Improve the quality of housing by creating a set of standards that developments must meet, regardless of if they are developed with planning permission or through permitted development rights.**
- 2. Provide guidance to local authorities to ensure that existing office-to-residential developments are not used to house vulnerable people in sub-standard accommodation.**
- 3. Ensure that prior approvals are not used to undermine building standards.**

Location

Balancing office space and residential space

The Assembly’s Planning Committee recognises that PDR allow for the creation of more residential dwellings. However, the increase in residential land under the scheme comes as a direct result of losing office and commercial space. Paul Lewin highlighted to the Committee how this scheme has led to perverse incentives within Brent. *“We are now seeing, certainly in Brent, fully occupied offices because the rents are not as good as the benefits to the developer or the landowner as a residential scheme. We are now seeing businesses being booted out of offices, and those offices coming under the prior approval process, and us not being able to find new premises for businesses with the borough.”* The above evidence is important because since 2013, over 676,000m² of London office space has been lost.⁶

In an economic and commercial context, the loss of office space has adverse effects on the rate of inward investment. As Henry Smith pointed out to the Assembly’s Planning Committee, quoting an anonymous London borough: *“[the scheme] is a disaster for housing and also has very badly affected our commercial centre due to the loss of office space. In addition, the local charitable sector have been finding themselves without places to operate from.”* This highlights that PDR have had negative unintended consequences for civil society.

The Committee was made aware of some PDR conversions that were either planned for, or had been developed in, units on industrial estates. Paul Lewin pointed out that *“once you introduce a residential use within an industrial estate that is operating on a 24-hour basis with smelly and noisy uses around it, those businesses are also adversely impacted upon. That is where the planning system would deal with those types of matters to ensure that the development occurs in the right place and has the right conditions attached to it to ensure that noise is not adversely affecting the residents in the block, etc, which the current prior approval process has absolutely no controls over whatsoever”*. This is particularly problematic, as such developments would also serve to deprive residents of amenity space and/or green spaces and may be poorly served by public transport.

⁶ MQT 2018/5371 [Extension of permitted development rights](#) 20 December 2018

Thus, in a residential context, the combination of poor quality and inappropriate location can have impacts on wellbeing. It is well documented that providing access to green spaces, dedicated walking areas, exercise areas and welcoming shopfronts and amenities encourages positive social interaction and promotes wellbeing. In contrast, a lack of access to green spaces and/or long stretches of featureless, monotonous walls, are known to increase persistent and pervasive negative thought patterns – known as ‘rumination’ - and reduce the desire of people to socially interact with one another.⁷

Article 4

Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015, allows a planning authority to remove PDR in a specific geographical area. The Mayor of London worked with London boroughs to implement Article 4 exemptions for the Central Activities Zone, which includes the City of London, South Bank, West End, commercial area in the north of the Isle of Dogs, Tech City in the City Fringe opportunity area in east London, and London’s Enterprise Zone in the Royal Docks.

The Assembly’s Planning Committee was made aware by Paul Lewin, that the London Borough of Brent *“cannot achieve the London Plan goal of increasing the amount of employment floor space within [Brent] if on the one hand the huge supply chain is being lost without the need for replacement.”* Due to the conflicts caused by the need for both commercial/office space and residential units, planning authorities feel that there is no alternative but to cover whole areas with Article 4 exemptions. However, the Committee was also made aware that Article 4 exemptions do not necessarily provide a solution. Henry Smith informed the Committee that *“in some instances the office space that [planning authorities] value is quite dispersed and the Article 4 directions are not really a feasible way of tackling that, because they have to show how the council would meet the housing requirements from elsewhere.”*

The Committee was also made aware of the financial impacts of Article 4 exemptions on planning authorities. Dr Ferm highlighted to the Committee that the London Borough of Camden *“spent £30,000 or more just gathering evidence to support the Article 4, thousands more pounds to send out the notification letters, and £20,000 of officer time to put all this through. That is their estimate. On top of that they are not getting the fees that are associated with planning applications. There are resource implications, financial implications, for local authorities in all of this.”*

Recommendations:

- 4. Use powers to ensure that local planning authorities strike the appropriate balance between residential and commercial/office land space demand.**
- 5. Ensure that residential conversions are in appropriate locations, promote a sense of community and that residents have access to transport links, green spaces, and amenities.**

⁷ Centre for Urban Design and Mental Health [How Urban Design can Impact Mental Health](#)

Upward Extension

The Government has extended the PDR scheme to upwards extension by two storeys. The Committee was made aware by Julia Park that rooftop extensions carry *“practical and aesthetic challenges, which should not be underestimated.”* The Committee also heard from Arshad Bhatti that any rooftop extension requires that *“the whole building, the building below and the new one, complies with the current building regulations.”* This is the case irrespective of the PDR scheme. He also highlighted that such extensions can lead to enhancing, rather than merely maintaining, buildings. This can result in greater security for residents, and superior fire-safety measures for the building as a whole.

Recommendations:

- 6. Ensure that any upward extension PDR scheme does not lead to a deterioration in building safety, quality or aesthetics.**

The Committee is alive to the issues that have been raised regarding PDR, which can serve to systemically undermine planning authorities’ standards and regulations. Furthermore, the Committee is also alive to the risk of creating a skewed playing field in which some developers must abide by higher standards and planning permission bureaucracy fees, whilst other developers may not have to do this. As a result, the Committee would urge greater efforts to ensure a level playing field for developers and universal living standards for residents.

The Committee notes your announcement of 12 March regarding upward extension by two storeys and we hope you take this letter into account before publishing the full details of this legislation. You also announced a future consultation on demolition and rebuild of vacant commercial, residential and/or industrial buildings for development for residential use, and a future planning white paper, to which the Committee may respond to once published.

The Committee would welcome a response by 17 July 2020. Please address your response to Sarah-Jane Gay, Senior Policy Adviser, at Sarah-Jane.Gay@london.gov.uk.

Yours sincerely,



Andrew Boff AM

Chair of the Planning Committee