Regulatory Policy Committee

# Permitted development rights to build new homes on existing buildings

## Ministry of Housing, Communities and Local Government

## RPC rating: fit for purpose

The impact assessment (IA) is now fit for purpose following the department's considerations to the RPC's initial review. As first submitted, the IA was not fit for purpose. The changes made to the IA were minimal and just sufficient to make it fit for purpose. We recommend strongly that the department addresses all the issues raised in the 'areas for improvement' section of the IRN.

## Description of proposal

The IA sets out the Government's intention to introduce further planning reforms to support housing delivery by introducing new national grants of planning permission (permitted development rights - PDRs) to extend upwards certain existing free standing buildings and terraces in certain commercial and residential uses to create new self-contained homes. A new right will be created to allow additional storeys to be built on existing dwelling houses to increase the size of existing homes.

The department has recently introduced a PDR to allow up to two storeys of new housing to be built above purpose-built freestanding blocks of flats to encourage the delivery of more new homes in such a way than would otherwise be the case. It now proposes to introduce further PDRs to extend upwards certain existing free-standing buildings and terraces in certain commercial and residential uses to create new self-contained homes and create extra living space.

The department is introducing five new PDRs to allow:

- up to an additional two storeys to be built on top of existing free-standing blocks of three or more storeys in certain commercial uses and a mix of those uses, including with an element of residential, to create new housing;
- up to an additional two storeys to be built on top of existing terraces in certain commercial uses and a mix of those uses, including with an element of residential, to create new housing;
- up to an additional two storeys to be built on top of existing terraces in residential use, to create new housing or extra living space;
- two additional storeys on detached dwelling houses no greater than 18 metres in height, to create new housing or extra living space; and
- one additional storey on bungalows to create new housing or extra living space.

## Impacts of proposal

The department explains that data available for monetising impacts is limited but explains that there are no direct additional burdens that should disproportionately affect businesses.

The IA states that the building upwards PDRs allow businesses (primarily private landlords, commercial landlords and developers) to benefit from reduced planning fees by no longer being required to submit a full planning application in the circumstances covered by the PDRs. Private owners also benefit from reduced planning fees for vertical extensions.

It is estimated that the total saving in planning fees to private owners and businesses (at constant prices) are £0.5 to £1.5 million per annum. This range is primarily driven by variation in the uptake of the right and the stock of suitable existing buildings. Residential property owners who are not private landlords and hence not businesses will also enjoy the same discount for submitting a prior approval versus a full planning application for extension of their property.

Private residential property owners will experience net land value uplift of around £3.9 billion. Businesses (private residential landlords, businesses which own their property, and commercial property landlords) will benefit from net land value uplift of £1.6 billion.

**Monetised Benefits**

***Number of dwellings*** – The department estimates 78,000 additional dwellings could be created over ten years due to the PDRs. This is based on the uptake growth rates of the office-to-residential permitted development right as no data is held on upward developments of this type. The IA modelling reflects anticipated new homes over and above those that would come forward under the normal planning permission route. Furthermore, based on discussions with the housebuilding industry, such upward schemes are quite specialised and uncommon, and therefore would account for a relatively small number of new homes. The cost of such schemes may be high due in part to the complicated engineering solutions and constrained site access to work on existing buildings compared to a new build starting at ground level. It may also be necessary to decant the existing residents of the building to alternative accommodation while any major structural works are undertaken.

***Land Value Uplift (LVU)* –** The department states that the best estimate of LVU from creation of the PDR is around £5.5 billion. LVU will bring benefits to freeholders of eligible and feasible buildings even if they do not act on the right because the building will gain the in-principle permission for upward development. The department uses the brownfield land value as a proxy for the uplift.

### Non-Monetised Benefits

The IA states that building up PDRs will allow businesses (developers, private residential landlords and commercial property owners) to benefit from increased planning, certainty and reduced planning requirements on the premises that satisfy the policy. Local communities will enjoy more efficient use of space (with the same footprint providing more homes) whilst avoiding building elsewhere which may entail potential negative impact (for example loss of amenity value from urban sprawl into greenspace). More dwellings help to ease overcrowding in existing homes with corresponding health, wellbeing and lifetime earnings. Additional supply helps to lower the marginal cost of housing for buyers and renters. Residents see building maintenance costs spread over more units reducing costs. Building owners can use opportunity to retrofit other parts of the building at the same time (for example to save on the cost of scaffolding).

### Non-Monetised Costs

The department states that there will likely be externalities imposed on the local community. It is hard to assess these since it will vary on a case-by-case basis. Examples could include greater shadows cast over nearby neighbours affecting their amenity, or perhaps higher traffic density caused by more people living in the proximity. Though the externalities should be small as the policy is limited.

### Small and Micro Business Assessment (SaMBA)

The department states that small businesses have not been excluded as this is a deregulatory measure designed to reduce burdens on firms and should disproportionately benefit them. Furthermore, the IA states that this measure should assist small businesses due to the additional certainty it provides. There is a natural restriction on the size of development that can be delivered by the PDR with small sites more likely to undergo work by small developers. Small builders often struggle to compete with the large housing developers who are better able to access land for development and navigate the planning system due to their experience and resources available to them.

## Quality of submission

### Issues addressed following the RPC's initial review

The department has revised an original draft of its IA in response to comments from the RPC, and the IA is now considered fit for purpose. The improvements in the assessment, which were mainly around the need to provide further explanatory detail, are as follows:

**Missing costs -** within the "non-monetised costs" section, the department acknowledged that there may be impacts on leaseholders, such as "buy-to-let" investors, as a result of their tenants having to move out temporarily while the physical works to the building are undertaken, as well as the risk that properties remain empty during this time. The department explains that data available for monetising costs is limited and argues that costs falling on leaseholders are captured in the land value uplift. The IA uses a brownfield LVU which is lower than other LVUs, to account for the short-term costs such as decanting of residents or retro fitting the building to take into account building standards such as the need for stronger foundation. The RPC considers that temporary impact on leaseholders, including buy-to-let landlords as (direct) cost not captured in the analysis. While the department has used brownfield LVU as an analytical tool to consider these costs, the IA does not fully explain how temporary short-run impacts are captured in the long-run valuation of land, and this remains an area of concern for the RPC. While we recognise that some leaseholders are able to seek compensation from freeholders for temporary impacts, whether or not legal recourse is available, it does not prevent an economic cost being borne by one of the parties, as a direct impact of the regulation.

**Counterfactual/baseline –** The RPC asked the department to clarify the estimated 78,000 additional dwellings relative to the "do-nothing" or baseline. The department has added further detail to the IA to explain that they do not collect or hold data on new developments of this kind but has clarified that the modelling reflects the new homes that are estimated, over and above those that would occur in the "do-nothing" scenario.

### Other points in the revised IA

The RPC identified several areas for improvement in the initial review. These are:

**Benefit and cost estimates** – The RPC asked the department to clarify uncertainty in estimates of the impacts caused by temporary Covid-19 measures, such as reductions in stamp duty. The department has added further detail on uncertainty in estimates and cautioned where this is not appropriate as it could lead to spurious accuracy in the modelling.

**Rationale and Options** - The RPC stated that the IA would be improved through a description of the further options considered and through the expansion of the "do nothing" option to clarify the effects without intervention. The department has explained that this measure forms part of a suite of other measures and that options were considered at an aggregate level. The RPC is of the view that an explanation of the process to consider options provides evidence that proposals were fully tested. The IA would have been improved by providing assurances in the narrative that options were fully tested, and how the preferred option was selected.

**Unjustified assumptions** – The RPC raised concerns that in a number of cases, the department has not fully justified key assumptions used in the modelling to calculate impacts. The RPC considers that explaining modelling assumptions is a basic and key necessity for assuring interested parties that the impacts can be relied upon. In particularly, the RPC is concerned about the assurance given from "sense testing with policy colleagues" in a number of instances in the IA and would prefer that the department uses verifiable evidence, such as industry/interested party consultation responses to inform assumptions.

**Wider impacts** – The RPC considers the impacts of housing policy to be wider than the policy objective to increase or improve the housing stock. The IA could have been improved by further explanation of the wider impacts, to provide assurance that the department has thought through all relevant external effects of the intended policy.

**Monitoring and evaluation plan** – The RPC welcomes the department's assurance of its commitment to monitoring and we understand that the need for the department to evaluate this regulation alongside other related policies. The IA would be improved by outlining a plan to ensure that such monitoring and evaluation takes place at the appropriate level, recognising a reasonable burden on the department's resources. Given the uncertainties in the modelling for this policy, we believe that an evaluation is essential in the medium term to assess whether the policy has met its objectives.

**Consistency with first IA** – The RPC noted that there was an inconsistency on the LVU between the first IA on Town and Country Planning Regulations which was 8 per cent and this IA which is 6 per cent. We are now content that the department has clarified that it is 6 per cent for both measures.

## Departmental assessment

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| Classification | Qualifying regulatory provision (OUT) |
| Equivalent annual net direct cost to business (EANDCB) | -£167.0m |
| Business net present value | £1437.4m |
| Societal net present value | £4964.0m |

## RPC assessment

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| Classification | Under the framework rules for the 2017-2019 parliament: qualifying regulatory provision<br><br>To be determined once the framework rules for the current parliament are set |
| EANDCB | -£167.0m – subject to validation once the framework rules for the current parliament are set |
| Business impact target score | -£835.0m – subject to validation once the framework rules for the current parliament are set |
| Small and micro business assessment | Sufficient |

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Date of issue: 28 October 2020
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