



NFCC
National Fire
Chiefs Council

c/o 71-75 Shelton Street
Covent Garden
London
WC2H 9JQ
www.nfcc.org.uk

Sent to: PDRconsultation2024@levellingup.gov.uk

9 April 2024

Changes to various permitted development rights: consultation

The National Fire Chiefs Council (NFCC) is pleased to respond to this consultation, published on 13 December 2023, regarding permitted development rights (PDR). NFCC is the professional voice of UK fire and rescue services (FRSs) and is comprised of a council of UK Chief Fire Officers. This response was created by NFCC's Protection Reform Unit and Strategy and Policy team and was drafted in consultation with our members across UK FRSs. Our response reflects their expertise and competence with the subject matter.

Technology is advancing rapidly and NFCC welcomes the opportunity to comment on changes proposed by the Department for Levelling Up, Housing and Communities. We support the Government's strategic priorities for energy security and independence and the ambition to deliver much-needed housing infrastructure to support this. However, this must be provided via a robust process that results in safety for residents, occupants, the wider community, and firefighters. There should not be a conflict between the quick and easy delivery of infrastructure, proliferated through the proposed changes to PDR, and fire safety.

An extension of PDR could, if implemented poorly, inadvertently lead to a further increase in buildings with fire safety issues at a time when the regulatory system is struggling to deal with those already built.

Planning permission and PDR

The planning stage has always been an opportunity for FRSs to raise concerns about a building and engage with the developer at an early stage, including through building control

bodies. One key advantage is that it is easier for regulators to work with developers if engagement occurs at this early stage, with their comments acknowledged, which can avoid the need for abortive work or subsequent enforcement action. Changes made under PDR are still subject to the Building Regulations and work that complies with the Building Regulations should comply with the Regulatory Reform (Fire Safety) Order 2005 (the FSO) too.

NFCC believes it is necessary to highlight the misconception from applicants that planning permission is the only approval they need in order to build. Planning permission does not demonstrate compliance with the Building Regulations or the FSO. It also cannot be used to demonstrate compliance with new requirements within the Building Safety Act 2022 (BSA). After achieving planning permission, developers should also consult a building control body. However, the experience of our members suggests many owners/developers are not following this process.

Proposals in this consultation have knock-on effects on Building Regulations consultations. One example is the proposal to amend PDR in question 4. Removing extension limitations may be permissible under PDR rules but may not meet space separation requirements under B4 of the Building Regulations 2010.

The proposed changes to the PDR process should not be carried out in isolation from other regulatory functions and supporting guidance as they are inextricably linked, with planning being the initial stage for stakeholders and regulators to engage on the proposals. For example, where a PDR commences above an existing building there is no requirement to enhance the fire safety measures in that existing part of the building. This places the parts of the PDR at an increased risk from fire developing in the existing building below.

NFCC would therefore like to see the whole building's fire safety requirements be considered including but not limited to the part subject to actual building work. Such an approach would encourage early engagement between developers and building control bodies and ensure the final residential building meets modern fire safety standards, without impacting the Government's aims in extending PDR. An alternative solution could be to require the developer to consult with a FRS if a PDR is being applied.

EV charging infrastructure, guidance, and Building Regulations

NFCC is seeking a definitive position as to whether the installation of electric vehicle (EV) charging infrastructure constitutes a material change to the building or indeed the installation of a controlled service requiring a Building Regulations application and subsequent consultation. As FRSs are an enforcing authority of the FSO, we are concerned that the installation of EV charging infrastructure could affect the overarching fire and evacuation strategy for a building and needs to be considered holistically via consultation.

The Building Regulations are silent on the need for a submission for this purpose and it is down to local interpretation which could lead to inconsistency.

Introducing charge points around buildings and encouraging potentially exclusive EV use within these spaces has a significant impact on many areas of Building Regulations, most notably fire safety.

Regardless of the status of EV charging as a controlled service under the Building Regulations, NFCC believes that the impact of PDRs relating to EV charging needs to be considered further, particularly regarding B1 to B5 of Schedule 1 to the Building Regulations 2010. The enhancements to EV charging will likely require additional technical requirements to safely implement the policies contained within this consultation. The guidance to support those additional technical requirements needs to be in place before making enhanced charging facilities permissible.

Such guidance should consider areas such as:

- How do you isolate charge points?
- Is the EV charge point linked to automatic fire detection systems?
- What systems are available to control the development of a vehicle fire?
- Where do you locate charge points?
- What are the firefighting access arrangements and the firefighting facilities available in the case of fire?
- What is the likely impact on a building's structure from jet-like flaming?

Furthermore, changes to PDR should also set out where EV charging infrastructure should not be installed e.g. car parks where access is only via vehicle lift or those that use car stacking, or anywhere else with limited firefighting access.

This guidance is urgently required; it is likely unclear to those currently undertaking installation work whether the building's existing fire precaution arrangements are sufficient to mitigate the introduction of the additional risk of EV charging, or whether additional measures are required to be retrospectively installed.

Further PDRs, if implemented without significant safeguards, will lock in more unacceptable standard development, the consequences of which we will live with for generations or must rectify later at greater expense. Having safeguards does not mean construction delays, it means that the buildings built now will not become the potential disasters of the future.

Due to the wide scope of the consultation, we have chosen the most relevant questions to respond to below. NFCC hopes this response is helpful and welcomes further discussion following the outcome of the consultation.

Regards,

A handwritten signature in black ink that reads "N. Coombe". The signature is written in a cursive style with a large initial "N" and a smaller "C" for "Coombe".

Nick Coombe on behalf of Gavin Tomlinson

Protection & Business Safety Scrutiny Committee Chair
NFCC

Q.5 Are there are any circumstances where it would not be appropriate to allow extensions up to the rear boundary where the adjacent use is non-residential?

- **Yes**
- **No**
- **Don't know**

Please provide your reasons.

Yes.

Under the Building Regulations, there is a requirement to consider the issue of external fire spread between buildings. This issue is addressed by ensuring a sufficient distance between buildings to prevent a fire in one building from causing a fire in another. Whilst the required space separation distance is a figure that needs to be determined, a factor in this would be the size of a fire that could occur, which itself would be related to the size of the building. For this reason, the space separation required between a house and a large commercial building would be greater than you would expect between two houses. Allowing houses to be extended up to the rear boundary where the adjacent use is non-residential, particularly where the adjacent property is large could result in the house being exposed to greater risk from fire.

Whilst it is acknowledged that planning and Building Regulations are separate matters focused on different issues, there is a misconception that once planning approval has been granted, then Building Regulations approval is already assured. This is particularly the case for single house extensions which may be perceived as simple, low-risk building work. Whilst this issue would still be relevant without the proposed PDR, removing the level of scrutiny that comes with submitting a planning application may serve to further this misconception.

Q.21 Are there any other planning matters that should be considered if bin and bike stores were permitted in front gardens?

- **Yes**
- **No**
- **Don't know**

Please provide your reasons.

Yes. NFCC encourages the Government to consider the potential knock-on effects of permitting bin and bike stores in front gardens and the relation to fire risk.

In most cases, whether it be timber or plastic, these stores are likely to be constructed from combustible materials. Whilst the consultation refers to their use in relation to front

gardens, in most cases these stores are likely to be built in very close proximity to houses. As an enforcing authority for the FSO, we have long recommended commercial premises keep their refuse areas away from the building to mitigate against the risk of arson. This advice is equally relevant to domestic premises, especially where there is a heightened risk of arson. Given the size of the stores permitted by this proposed PDR, should they become involved in a fire, it could easily spread to a house, presenting a risk to life.

Due to our ongoing concerns regarding lithium-ion batteries, NFCC would support measures that would encourage the public to store and charge e-bikes, and potentially other personal light electrical vehicles (e.g. mobility scooters) outside of their homes. However, this itself would not wholly address the risk, and there remains the possibility of a fire involving a bike in a store spreading to a house just as it could with bin storage. Furthermore, it is reasonably foreseeable that the creation of a PDR to support bike storage will lead to an increase in ownership of bikes, be it e-bikes or otherwise.

For these reasons, we recommend that where information is presented on this proposed PDR, guidance is also provided outlining safety considerations when storing e-bikes and other personal light electrical vehicles in close proximity to residential buildings.

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

- **Yes**
- **No**
- **Don't know**

Please provide your reasons.

Yes.

NFCC is unclear how the proposed PDR would fit in with the Gateway 1 procedures under the BSA, and therefore seeks reassurance that any building that would fall under the definition of a higher-risk building under the BSA as a result of an upward extension would be subject to the same requirements as any other in-scope buildings including the requirement to provide a fire statement.

The planning stage has always been an opportunity for FRSs to engage with developers at an early stage in relation to Building Regulations and FSO matters before certain aspects of the design get locked in. Any upward extension of blocks of flats is likely to be of particular interest to FRSs; the proposed PDR would likely result in this opportunity for engagement being lost, potentially resulting in conflict at the stage of consultation for compliance with the Building Regulations.

Achieving planning approval can raise issues where the developer believes they are also entitled to Building Regulations approval. Depending on the height of the building both before and after the upward extension, there may be significant and potentially very onerous changes required to both the internal and external fire safety arrangements, especially if existing parts of the building are expected to be brought up to current standards.

To give one example, the adequate provision of water for firefighting becomes more important the larger a building becomes, and it is needed for the safety of both firefighters and occupants. Whether it be the provision of hydrants or external water tanks, these issues would need to be addressed during the planning process, though they may only come to light at the stage of a Building Regulations consultation.

Whilst it is acknowledged that this is ultimately a Building Regulations matter, there will be some buildings where upward extensions are an unrealistic and unviable option. We are concerned that the existence of the proposed PDR will create a situation where developers try to force these projects through, ultimately resulting in buildings that don't achieve the expected level of safety.

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

- **Yes**
- **No**
- **Don't know**

Please provide your reasons.

Don't know. NFCC is unclear on the extent that the limitations associated with this PDR mitigate the impact on leaseholders.

However, if a developer chooses to use the proposed PDR to extend their building upwards so that upon completion it will be over 11m tall, the provision of sprinklers throughout the building will become mandatory. The requirement for sprinklers would extend to all flats and would not just be limited to the newly constructed flats. Whilst NFCC completely supports the requirement to provide sprinklers throughout these buildings, such a development would have a significant impact on both leaseholders and residents who will ultimately require some form of building work to be carried out in their flats. NFCC is unsure how this aligns with expectations regarding minimising impact, and whilst conflict is foreseeable, standards of safety should not be compromised. This scenario would nonetheless result in leaseholders and residents being exposed to significant levels of noise, dust, and disruption, and we are not clear that it has been considered.

Q.29 Do you think that any of the proposed changes in relation to the Class AA of Part 1 and Class A, AA, AB, AC and AD of Part 20 permitted development rights could impact on: a) businesses b) local planning authorities c) communities?

- **Yes**
- **No**
- **Don't know**

Please provide your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination and which right or rights your comments relate to.

Yes.

Whilst it is acknowledged that this is ultimately a Building Regulations matter, there will be some buildings where upward extensions are an unrealistic and unviable option. We are concerned that the existence of these PDRs will create a situation where developers try to force projects through, ultimately resulting in buildings that don't achieve the expected level of safety. This would undeniably impact on FRSs, businesses, local planning authorities, and communities.

Q.40 Do you agree that the permitted development right should allow one unit of equipment housing in a non-domestic car park?

- **Yes**
- **No**
- **Don't know**

Please provide your reasons. If you think that the permitted development right should allow for more than one unit of equipment housing or storage cabinet, please specify a suitable alternative limit and provide any supporting evidence.

Don't know.

It is understood that this PDR is intended to support the placement of equipment which will facilitate the installation of EV charging points within a car park rather than the provision of charging points themselves.

Whilst it is noted that this PDR would only apply in non-domestic, off-street ground-level car parks, NFCC would like to clarify whether this would include the ground floor of a covered car park. There is an increased risk associated with EVs compared to non-EVs in the context of a covered car park, and NFCC has concerns about the implications for both life safety and property protection. Our concerns are more broadly outlined in our response to question 42.

Q.42 Do you have any feedback on how permitted development rights can further support the installation of EV charging infrastructure?

- **Yes**
- **No**
- **Don't know**

Please provide your reasons.

Yes. NFCC suggests that PDRs as detailed in these proposals will further support the unsafe installation of EV charging infrastructure.

We understand the reasons for using PDRs to increase EV charging infrastructure as part of the drive towards clean energy, however, we remain concerned that PDRs are being used to actively support changes to the built environment that are not appropriately supported by Building Regulations and accompanying guidance.

Presently, we remain unclear as to whether the installation of EV charging points would even constitute Building Regulations work. We have been advised that this is down to local interpretation which invariably will lead to inconsistency of application.

Whilst Approved Document S provides guidance on the installation and location of EV charge points, this is mostly concerned with setting requirements in relation to the number and technical specification of the charging points. For guidance concerning fire safety, it refers to Approved Document B (ADB), even though it has not been updated to account for the rise in popularity of EVs and an increasing pace of technological change.

We believe the proliferation of EV charging points has implications for B1 to B5 of ADB, and their inclusion within a car park needs to be considered holistically. Guidance should be updated to consider areas such as:

- How do you isolate charge points?
- Is the EV charge point linked to automatic fire detection systems?
- What systems are available to control the development of a vehicle fire?
- Where do you locate charge points?
- What are the firefighting access arrangements and the firefighting facilities available in the case of fire?
- What is the likely impact on a building's structure from jet-like flaming?

Regardless of whether the Government confirms that EV charging infrastructure constitutes a material change to a building or a controlled service requiring a Building Regulations application, any proposal to change limits to EV charging points should be accompanied by a review of other appropriate aspects of the Building Regulations.

Q.43 Do you think that any of the proposed changes in relation to the Class D and E of Part 2 permitted development right could impact on: a) businesses b) local planning authorities c) communities?

- **Yes**
- **No**
- **Don't know**

Please provide your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination and which right or rights your comments relate to.

Yes. The proposed changes will impact FRSs, businesses, local planning authorities, and communities.

Increasing the provision for the installation of EV charging points enhances fire risk if not implemented appropriately. One potential mitigation is the installation of firefighter switches, which could be operated remotely by firefighters, and would ensure that EV charge points could be isolated during a fire. It is imperative that firefighters can easily understand the charging status of an EV at an incident. Without this provision, in some cases, an FRS may be required to wait until the local electricity provider can arrive and isolate the charging point. This inevitably limits the actions that firefighters can take in the meantime.

NFCC is also concerned about unregulated products, usually cheap in comparison with those that do meet UK standards, and often sold online. This includes potential purchases of replacement EV charging cables through the bigger online retailers such as Amazon. A report published in September 2022 by electrical safety charity [Electrical Safety First](#) found nearly 60 electrical product listings on prominent marketplaces including Amazon, eBay, Wish.com, and AliExpress which fell below the required safety standards for sale to UK consumers. We would therefore welcome much-needed legislation to ensure these dangerous products are more strictly regulated.