

The Chartered Institute of Building (CIOB)

submission to

Scottish Government

on the consultation

Review of Permitted Development Rights Phase 2 Consultation Response

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The Chartered Institute of Building (CIOB) is at the heart of a management career in construction. We are the world's largest and most influential professional body for construction management and leadership. We have a Royal Charter to promote the science and practice of building and construction for the benefit of society, which we have been doing since 1834.

Our members work worldwide in the development, conservation and improvement of the built environment. We accredit university degrees, educational courses and training. Our professional and vocational qualifications are a mark of the highest levels of competence and professionalism, providing assurance to clients and authorities who procure built assets.

We have previously shared our support for the Scottish Government's place-based approach to sustainability.¹ Place provides a point at which creators of the built environment - planners, construction professionals, architects, designers, infrastructure providers, and sustainability professionals - can work together to deliver a sustainable environment.

Question 1: Do you agree with the removal of restrictions on Class 9E PDR, for wall-mounted EV charging outlets, in the specified areas currently listed in Class 9E(3)?

We believe that meeting net-zero and carbon emissions targets will require an overhaul in our transportation system that is centred around a shift in priority away from reliance on vehicular travel. As the Institution of Civil Engineers has outlined, in order to achieve our sustainability goals, our goal is to decarbonise, not necessarily to switch to EVs per se.²

The International Energy Agency has argued that one-third of car-based journeys must transition to public transport by 2050.³ We are supportive, in principle, of policy change that extends infrastructure to better serve EVs. However, it must be accompanied by planning policies that encourage green transportation – developing cycling lanes and encouraging high-density, mixed-use development that supports the creation and extension of 20-minute communities and uses existing transportation networks. Through holistic, place-based strategies, the built environment can lead on the transition away from car-dependent development while facilitating sustainable transport infrastructure.

Question 6: Do you agree with the proposal to introduce PDR for solar canopies and related battery storage and equipment housing EV charging upstands in off-street parking areas?

The CIOB supports policies that focus on the quality of the built environment. Quality is critical. It is about the greater public good we expect from our infrastructure to promote human health, safety, and wellbeing and address today's many social, cultural, environmental, and economic concerns.

¹ CIOB. [Response to Scottish Government's National Planning Framework 4](#). April 2022.

² Institute of Civil Engineers, [Electric vehicles in 2021: speeding ahead or stuck in traffic?](#) June 2021.

³ *ibid.*

As such, we support proposals to increase the efficiency of EV charging stations and make the most of renewable energies. We commend the Government's focus on making EV charging facilities as sustainable as possible.

Question 8: Do you agree with the list of areas within which new PDR for such solar canopies and related battery storage and equipment housing should not apply?

We support the restrictions on the placement of these facilities, recognising the need to mitigate adverse impacts on roadways, communities, and residential properties in the imminent vicinity.

We strongly support the list of areas in which the new PDR should not apply.

Question 14: If so, would such PDR for other parties need to be linked to some arrangement with local authorities or other form of authorisation?

We strongly support policy that allows local authorities and communities to be responsive to their individual needs and contexts, in line with the principle of subsidiarity. As such, we would support PDR parameters requiring private sector stakeholders to maintain arrangements with local authorities.

Question 19: Do you consider that a merged use class bringing together several existing classes would help to support the regeneration, resilience and recovery of Scotland's centres?

We commend the Government's focus on making Scotland's town centres "greener, healthier and more equitable". The built environment has a significant role to play in creating green, walkable and vibrant communities and spurring on regeneration for town centres as they look to the future and post-pandemic recovery.

However, no single policy or development can, on its own, create sustainable, liveable places. Therefore, we support policy frameworks that are functional rather than completely prescriptive to preserve the freedom to innovate and respond to regionally diverse needs and challenges. We recognise that a merged use class could facilitate this freedom of innovation and, in so doing, support the regeneration, resilience and recovery of Scotland's centres. However, we do not believe that a merged use class PDR should act as a substitute for effective, locally-centred planning policies like those outlined in the draft National Planning Framework 4.

Though PDRs could help to streamline the often-onerous planning processes that can limit such innovation, the implementation of PDRs marks a departure from the place-based approach Scottish Government outlined in the draft National Planning Framework 4. We believe that PDRs may undermine the ability of local decision-makers to be considerate of and responsive to their community's unique context and needs.

Question 20: What do you consider to be the key risks associated with such a merged use class, and do you think that non-planning controls are sufficient to address them?

We support the Government’s ambition to create “diverse and mixed uses” in the built environment in Scotland’s centres. However, we are concerned that a merged use class PDR may undermine the abilities of local authorities – and communities directly, in the absence of planning consultations – to make decisions about what is best for their regions now and into the future.

PDRs like this proposal for a mixed use class can tend to increase land values, which can have implications for the viability of mixed tenures and types of housing.

In Ireland, for example, recent compact growth policy has led to homogeneity of output in urban areas. Developers, having paid a premium for land in a restricted market, seek to ensure they achieve their requisite profit margin, which is a function of a high-value land purchase, by prioritising housing types that lead to the greatest return on investment. This has led to a proliferation of hotels, co-living units, and student accommodation in city centres, with fewer for-sale, affordable and social housing units being delivered, despite their being called for in local plans.

In view of these possible adverse impacts, we urge government to put in place mechanisms whereby a proportion of the uplift could be regained through, for example, the tax system. In Ireland, proposed Land Value Sharing Measures (LVS) would respond to the State’s objectives, receiving a proportion of the increase in land values that result from key public decisions around zoning/designation. In the first instance, an LVS measure is proposed to apply to all new residential (and mixed-use development that includes residential) zoning and to designated ‘Urban Development Zones’ (UDZs) as outlined in the General Scheme for Land Value Sharing and Urban Development Zones Bill (December 2021).

The proposal is intended to be based on any increase in value which arises as a result of the zoning/designation and development process. A proportion of the value uplift of the development site, will accrue to the local planning authority as a conditioned requirement of the planning permission.⁴

We urge the Government to be mindful of the impact of liberalised mixed use class PDRs on land values and development incentives, and to employ measures such as the one we have outlined here as part of its planning policy.

We welcome the government’s recognition that the implementation of a merged use class PDR would remove a local authority’s ability to “control or mitigate impacts on existing premises.” We share concern about the possible negative effect this absence of control could create for local stakeholders, as in the example shared within the consultation document where a retail store becomes a restaurant.

As we have stated, we strongly support local adaptability of planning policy and the principle of subsidiarity. We recognise, however, that adaptability within the built environment is a vital means of extending the lifespan of buildings and regenerating town centres. As such, we urge the Government to consider the dimensions of our joint ‘Building in Quality’ report⁵, a collaboration between the RIBA, CIOB and RICS:

⁴ Government of Ireland. [Public Consultation for Independent Economic Appraisal of proposed Land Value Sharing Measures \(LVS\)](#). May 2022.

⁵ RIBA, RICS, CIOB, [Building in Quality](#), February 2018

- Build quality – completed asset performance
- Functionality – fitness for purpose
- Impact – the degree to which the asset adds social, economic, cultural and environmental value and improves wellbeing for those that buy, use, or manage an asset.

Question 23: Do you think that a PDR providing for a change of use to Class 4 (business) would help to support the regeneration, resilience and recovery of centres – as well as the establishment of 20-minute neighbourhoods?

The impact of Covid-19 has led to a new hierarchy of needs in the built environment, and infrastructure will need to adapt. As such, we support in principle policies, like a PDR providing for a change of use to Class 4, that seek to increase the flexibility and adaptability of our built environment in order to support post-pandemic recovery and improve the social, economic and environmental health of Scotland's centres and communities.

A long-term, sustainable plan to regenerate Scotland's centres should consider looking at interventions early in the build process as opposed to, for example, retrofitting commercial units. For instance, 'Seed Planning'⁶ - a planning and design approach offering minimum specification of how form relates to function - allows a building to fulfil multiple uses over the course of its life without sacrificing quality as it changes.

The Amsterdam Municipal Government has used Seed Planning in its transformation of Amsterdam's Port-City area from a mono-functional work area around the Sloterdijk node to a mixed urban living-working environment. The success of this project relies on urban, morphological and functional principles linked to different typologies for buildings and public spaces relating to density, mixed-use, flexibility, and adaptability for many different types of initiatives. The plan provides for buildings that, from the point of construction, would leave sufficient scope for change as the local economy develops and needs change. Given the fluidity we are witnessing in terms of how people utilise the built environment due to the pandemic, particularly office space, seed planning is a proactive type of intervention we could implement now, that will give new buildings the ability to continually adapt to the changing world.

Modern methods of construction (MMC), particularly modular, off-site solutions are well placed to facilitate the adaption involved in a seed planning approach. Modular off-site buildings can be built to be re-configured through their lifetime, adapting to different needs as they evolve. Modular construction provides a repeatable system of building that is easily adapted according to different requirements for height and floor area ratio and is thus deployable across a range of contexts. This is particularly pertinent in the context of large swathes of office space which could potentially become obsolete given changing working practices resulting from the Covid-19 pandemic.

CIOB is supportive of policies that reduce future demand for new construction through design that supports adaptability, repair, and maintenance, in line with the indicators of the EU Framework for sustainable Buildings, Levels. The most significant environmental impacts of constructing a building relate to its structure and facade. If the useful life of the building, and therefore also its structure, can be extended, there can be significant environmental benefits.

⁶ Sennett, Richard, Building and Dwelling: Ethics for the City, 2018

Based on EU indicators, we would like to develop a proposal to score a building's adaptability to change of use and propose that this be germane to the implementation of PDRs. While an adaptability requirement may be overly onerous on smaller developments in peripheral locations, implementing an adaptability score is particularly important in central urban locations, where changes in demands for building types are frequent.

As per the European Commission's 'Level(s) indicator 2.3: Design for adaptability and renovation guide'⁷ a building's adaptability score can provide a semi-quantitative assessment of the extent to which the design of a building could facilitate future adaptation to changing occupier needs and market conditions. It can therefore provide a proxy for the capacity of a building to continue fulfilling its function and to extend the useful service life into the future.

A similar spatial criterion could be used to implement adaptability scoring in the assessment of a planning application. New buildings in central urban locations, where demand for space changes – between office and residential, for example – could be required to achieve a certain adaptability score and this could be a factor in the decision as to whether to grant a development planning permission. This would be in keeping with national planning policy in Scotland, which prioritises dense, mixed-use development, as well as offsetting the need to repeatedly reproduce the most significant environment impacts of construction – the structure and façade of a new building.

By providing a score for adaptability, developers, local planning authorities and communities will be presented with clear options to take a longer view on the design aspects and decisions that may influence the building's service life.

Question 27: Do you agree with the proposed introduction of a PDR for moveable furniture placed on the road outside of (Class 3) food and drink premises?

Since the beginning of the pandemic, businesses have had to adapt quickly to changing environments and government mandates in order to continue to operate. We recognise that the use of outdoor space has been critical to survival for many of these businesses. Additionally, the provision of outdoor seating is a crucial way to make spaces more inclusive. Further, the existence of outdoor, moveable furniture can enhance the visual appeal and vibrancy of a community.

We recognise that in some localities across Scotland, existing planning policy regarding the use of moveable outdoor furniture can be onerous and particularly burdensome for SMEs. We therefore support the proposed introduction of a PDR for moveable furniture placed on the road outside of (Class 3) food and drink premises if sufficient parameters and requirements are in place. As outlined further in our response to Question 28, it is vital that roadways and pavements remain inclusive and accessible for all.

Question 28: Are there any conditions or limitations that you think such a PDR should be subject to?

Of paramount importance is maintaining inclusive access to roadways and pavements. We support regulations that require moveable furniture to be contained by structures (e.g., with

⁷ European Commission. [Level\(s\) indicator 2.3: Design for adaptability and renovation](#). October 2020.

decorative planter boxes) that are themselves moveable and do not unduly constrain access to public roads and pavements. We urge the Government to consider:

- Limiting the permissible footprint of moveable furniture
- Placing regulations on the location of furniture relative to kerbs, pavements and ramps – considering width requirements for accessible access to pavements
- Requiring highly visible, moveable barriers to be used to contain moveable outdoor furniture while in use
- Limiting the hours during which moveable furniture can be in use (considering business operation hours and noise implications for neighbouring residential properties)

Question 31: Do you agree that new residential development in Scotland’s centres should be plan-led rather than consented through new PDR?

Yes. Housing will play a key role in regeneration and in creating 20-minute communities. It is vital that decisions regarding the repurposing of buildings from commercial to residential and new residential developments are handled by local authorities and in consideration of individual needs and contexts.

Further, as we have highlighted in previous consultations, there is now clear evidence that PDRs produce housing that is consistently below the level of residential buildings that come through the planning system. Ministry of Housing, Communities and Local Government funded research into the quality standard of homes delivered through change of use permitted development rights finds that ‘...permitted development conversions do seem to be more likely to create worse quality residential environments than planning permission conversions in relation to a number of factors vital to the health, wellbeing and quality of life of future occupiers. These aspects are primarily related to the internal configuration and immediate neighbouring uses of schemes...’⁸

Question 32: Are there any other PDR changes which you think could support the regeneration, resilience and recovery of centres?

Aligned with the Town Centre First Principle as agreed by Scottish Government and COSLA leaders⁹, we believe that planning policies must take local needs and circumstances into account. We understand the motivation behind PDRs and agree that there is a need to have flexibility in buildings, rejuvenate town centres, and allow for innovation in our transportation network. However, planning is a highly politicised issue that is best left to regional decision-makers who understand the challenges in their communities. We support smart planning policies that protect consumers and encourage development that takes on board the needs and wants of local communities.

⁸ Clifford, B., Canelas, P., Ferm, J., Livingstone, N., Lord, A., Dunning, R., [Research into the quality standard of homes delivered through change of use permitted development rights](#), July 2020

⁹ Scottish Government. [Regeneration](#).