

# UNDER THE RADAR

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As part of a wide-ranging analysis of the English planning system, the 2008 Killian Pretty Review found that 97% of all planning applications were for householder, minor or other small scale development, 80% of which were directly approved by planning officers. The Review's findings suggested that local planning authorities were devoting excessive time and resources to minor applications, leaving too few resources available for major developments. In response to this bureaucratic blockage, the Review's recommended solution came in the form of a radical expansion of Permitted Development - the set of laws dating from 1948 which define what can be built without planning permission. In response, the Permitted Development (PD) rulebook was duly rewritten by the government in October 2008 to fulfil these recommendations. The rewrite was so extensive that decades of case law became obsolete, and our collective right to build, at least in terms of our homes, grew dramatically. The 'planning permission we already have' became a good deal more permissive overnight.

But it was also critically flawed. Ambiguous terminology and undefined assumptions, the grey areas of poor legalese, led to radically different interpretations of the law and inconsistent application of rules, which in turn led to confused homeowners coerced into paying agents to demystify the rules; planners caught out by legal loopholes; and angry neighbours unable to understand their rights. A reform that should have lightened the load on the planning system instead created a costly case load in the appeal courts. Furthermore, in April of this year, further legislation emerged which expanded PD beyond the residential use class to others including shops, offices, schools and industrial buildings. This expansion had the same intention of 'lightening the load' on planning authorities as the residential rulebook, but was cursed with similar flaws.

The new legal landscape of PD is a source of headaches for design professionals, planners and the public, but it can also be a source of inspiration and opportunity. It has the potential to liberate small-time development and catalyse the independent economy, but likewise it could open the flood gates to a chaotic free-for-all, or indeed both of these things at once, depending on your point of view. Whichever way we fall, PD exists as a right to build and is therefore a legitimate territory for exploration.

The planning system is a product of culture, a negotiated and endlessly changing artefact, and therefore something worth engaging with as design professionals. Too often planning and other mechanisms of the state are treated as unquestionable, and architects find it all too easy to think of the planning system as an enemy across a courtroom- an unshakable device that can only hinder the visions and freedoms of the developer, the designer, and the dweller. In reaction to this, Finn Williams and myself, with a number of collaborators, have undertaken a series of projects which examine Permitted Development with the intention of exploring the current limits of the legislation and exploring their logical – and sometimes illogical – consequences.

The first such project, published in 2009, was a book called *SUB-PLAN: A Guide to Permitted Development*, which we produced with students of the Architectural Association Summer School. Published when the new PD legislation only applied to houses, the book pulled apart the legislative loopholes that characterised the new laws, and revealed huge potential in legal ambiguity, particularly as PD laws are based on generic assumptions about house and plot types which are rarely found in reality. By making a roof pitched we can build much higher than would otherwise be possible, but what exactly are the limits of a pitch? When trying to ‘match the materials’ of an existing building, which materials should we choose? Does a chimney have to act as a chimney, or could it be scaled up to house a small library? We proved that even such generic definitions as ‘front’ or ‘back’ could be challenged in the name of opportunistic development, in the process transforming ambiguous legalese into clear rules that anyone can use- whether they are building or protesting.

When applied to case studies, using sites drawn from real London streets, radical domestic types emerged. One example is that of the fictional Mr and Mrs Curtilage, who live in a bungalow with a large garden, and have been given a massive new home cinema system which is too big for their tiny home. The extension they could build under PD would be relatively modest, but by making their new home cinema room an ‘independent structure’ – a subgenre of building supposed to include storage tanks, chicken runs and garden sheds – Mr and Mrs Curtilage are able to not only house their home cinema system, but to build an altogether more ambitious structure - a home-cinema big enough to entertain the whole street. The structure would have to be separate from the main house, sure, but nowhere in the legislation is the degree of ‘independence’ specified. In combination with a clever interpretation of what a pitched roof is, the Curtilage family have dramatically increased their viewing pleasure.

A structure like the Curtilage Cinema would undoubtedly lead to howls of protest from its neighbours - at least from those not invited around for popcorn. Such a structure would be contested not only by neighbours but also by the authorities, but each legislative loophole exploited is open to interpretation, particularly thanks to the lack of clarity in the original legal documents, and therefore the processes of case law become the territory where our right to build is negotiated and defined.

SUB-PLAN was named in homage to ‘NON-PLAN’, the 1969 article in *New Society* produced by Reyner Banham, Paul Barker, Peter Hall and Cedric Price. Where NON-PLAN advocated the strategic abolition of planning laws in particular areas, and was therefore an indirect influence on enterprise zones like Canary Wharf, SUB-PLAN finds opportunity in the existing planning system. To explore this further, and to mark the expansion of PD beyond the residential, we next worked at an urban scale in a project first published in *l’Architecture d’Aujourd’hui*. Using only existing rules, we explored how PD could affect the form and character of a built environment if taken to its current extreme. For this experiment, we chose Poundbury, an ‘urban extension’ to Dorchester which polemically mimics a town grown piecemeal over centuries, but is one of the only places in the UK that restricts Permitted Development as part of its building code. Our resulting environment has seen an estimated 35% growth in built volume, and could be understood as either a nightmare of ad-hocism or a celebration of freedom. Whichever view you lean toward, PD has achieved a diverse, organic urban growth of the kind we celebrate in our picturesque villages but which

we resist in contemporary development- nowhere more so than Poundbury with its restriction of PD rights.

Obscured by legalese, the current PD situation nevertheless suggests an invigorating conversation concerning our collective right to build and the resulting shape of our cities, a conversation that should be had in public and involving the public, planning professionals, architects and designers. The next phase of our work is the creation of a platform to encourage this debate, where such building rights can be tested, established and questioned, and where the case law of tomorrow is written. It's called *buildingrights.org*.

The current PD system can be seen as a forerunner to our current climate of cuts, where the state is receding in many areas from education to waste services, not to mention planning and housing provision. It may prove a testing ground where we discover who, and what, fills the gap left in its wake.