



Welsh Government  
Consultation Document

## Subordinate Legislation Consolidation and Review

### Consolidation of the Town and Country Planning (Use Classes) Order 1987 and Town and Country Planning (General Permitted Development) Order 1995

Date of issue: 31 May 2018

Action required: Responses by 28 September 2018

Version 2 - extended consultation period and correction to references for question 49

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.  
This document is also available in Welsh.

## Overview

This consultation contains proposals to amend and consolidate the Town and Country Planning (Use Classes) Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) Order 1995 (as amended).

## How to respond

The consultation includes a set of specific questions to which the Welsh Government would welcome your response.

Responses are welcome in either English or Welsh and should be sent by email or post to arrive no later than **28 September 2018**.

You can reply in any of the following ways.

### Email:

Please complete the consultation response form at the end of this document and email to [planconsultations-i@gov.wales](mailto:planconsultations-i@gov.wales) (please include 'UCO and GPDO Consultation' in the subject line)

### Post:

Please complete the consultation response form at the end of this document and post to:

UCO & GPDO Consultation  
Planning Directorate  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

## Further information and related documents

**Large print, Braille and alternative language versions of this document are available on request.**

The proposals detailed in this paper are informed by the following documents which you may want to refer for further information:

- [The categorisation of uses and management of change: A planning review. University of the West of England. October 2015](#)
- [Permitted development rights and small-scale, low risk hydropower. Dulas Ltd. November 2017](#)

- [Planning for Mobile Telecommunications: An Assessment of Permitted Development Rights In Wales. Arcadis. December 2017.](#)

**Contact details**

For further information:

UCO & GPDO Consultation  
Planning Directorate  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

Email: [planconsultations-i@gov.wales](mailto:planconsultations-i@gov.wales)

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You should also be aware of our responsibilities under Freedom of Information legislation

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Cathays Park

CARDIFF

CF10 3NQ

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Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

Tel: 01625 545 745 or

0303 123 1113

Website: <https://ico.org.uk/>

e-mail:

[Data.ProtectionOfficer@gov.wales](mailto:Data.ProtectionOfficer@gov.wales)

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**Appendix A**

Article 4 with immediate effect - LPA process for making, varying or cancelling a Direction

Article 4 without immediate effect – LPA process for making, varying or cancelling a Direction

# 1. Introduction

- 1.1 Through 'Prosperity for All: The National Strategy' we re-affirmed our commitment to requiring the co-ordinated planning of new homes, facilities and infrastructure. Local Planning Authorities (LPAs) have a significant part to play in delivering the strategy but in many people's minds, , planning is only about regulating the activities of others. Enabling LPAs to engage in place making and concentrate on more complex development proposals is essential to deliver the modern connected infrastructure required to drive prosperity.
- 1.2 Requiring an application for planning permission for all development would be an unnecessary use of scare LPA resources and impose unwarranted costs on individuals and businesses, as much development is small in scale and has limited effects. For many decades, such development has either been granted planning permission on a national basis or excluded from the need for permission.
- 1.3 The Town and Country Planning (Use Classes) Order 1987 (UCO) removes the need for planning permission for many material changes of use where the planning impacts of the new uses are similar. The Town and Country Planning (General Permitted Development) Order 1995 (GPDO) grants planning permission for many small and low impact development.
- 1.4 The Independent Advisory Group (IAG) report 'Towards a Welsh Planning Act: Ensuring the Planning System Delivers'<sup>1</sup> recommended the planning system should be allowed to concentrate on more complex development proposals, identifying the potential for more minor developments to be removed from the need for planning permission. The Welsh Government accepted in principle the IAG recommendation, and made comprehensive changes to the GPDO, in order to extend permitted development rights for householder development and certain non-domestic land uses.
- 1.5 To complement this work the Welsh Government commissioned a review of the UCO and associated permitted development rights<sup>2</sup>. The recommendations arising from the report are considered in section 2 of this consultation document.
- 1.6 Our work to 'remove the 10%', as recommended by the IAG, has also continued for specific development types. Our policy commitments to expand renewable energy and telecommunication provision mean we have considered whether additional opportunities exist to remove the need for planning applications for such infrastructure. Proposed changes to the GPDO are explored in section 3 of this consultation document.

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<sup>1</sup> Towards a Welsh Planning Act: Ensuring the Planning System Delivers. Report to the Welsh Government by the Independent Advisory Group. June 2012.

<sup>2</sup> The categorisation of uses and management of change: A planning review. University of the West of England. October 2015

- 1.7 The UCO is now over 30 years old, and the GPDO is over 21 years old. Both have been subject to multiple amendments and revocations, not all of which apply to Wales, creating confusion for all users. To address the difficulty for the public to find up-to-date versions of the statutory instruments, and most importantly, the parts which are relevant to Wales, we propose to consolidate both the UCO and GPDO if the changes discussed in this document are made.



## 2. USE CLASSES ORDER

- 2.1 The Town and Country Planning Act 1990 (“the 1990 Act”) includes ‘a material change of use’ within its definition of ‘development’. While a change has to be ‘material’ in planning terms, such as having an effect on the amenity of an area, it still means many insignificant changes of use would require an application for planning permission. The UCO is therefore intended as a deregulatory tool, helping to reduce the burden on businesses, LPAs and others involved in the planning system, whilst balancing the need to manage activities in the public interest.
- 2.2 The UCO establishes groups of uses with similar planning impacts. The UCO describes these as ‘classes’. Changes between uses within the ‘class’ would not result in any significant change in planning impact, so there is little benefit in requiring a planning application. Therefore, a material change of use within a class does not require planning permission. A material change of use to a use either in different class or not specified in a class (a ‘unique use’), does require planning permission.
- 2.3 Part 3 of Schedule 2 to the GPDO provides further deregulation by granting planning permission for certain changes between classes to take place. An example of why these further changes of use are granted a national planning permission is where there are environment improvements, as happens when uses in Class A3 (food and drink) change to Class A1 (shops).
- 2.4 The different land uses are grouped into four use classes while some remain ‘unique uses’ (formerly know as ‘sui generis’).

<b>Table 1: Use Classes specified in the Town and Country Planning (Use Classes) Order 1987 (as amended)</b>		
<b>Use Class</b>		<b>Purpose</b>
<b>Class A</b>		
	A1 Shops	a) for the retail sale of goods other than hot food, b) as a post office, c) for the sale of tickets or as a travel agency, d) for the sale of sandwiches or other cold food for consumption off the premises, e) for hairdressing, f) for the direction of funerals,

		<p>g) for the display of goods for sale,  h) for the hiring out of domestic or personal goods or articles,  i) for the washing or cleaning of clothes or fabrics on the premises  j) for the reception of goods to be washed, cleaned or repaired</p> <p>where the sale, display or service is to visiting members of the public</p>
	A2 Financial and professional services	<p>a) financial services, or  b) professional services (other than health or medical services), or  c) any other services (including use as a betting office) which it is appropriate to provide in a shopping area</p> <p>where the services are provided principally to visiting members of the public</p>
	A3 Food and drink	Use for the sale of food or drink for consumption on the premises or of hot food for consumption off the premises.
<b>Class B</b>		
	B1 Business	<p>a) Offices excluding those in A2 use  b) Research and development of products or processes  c) Light industry</p> <p>being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.</p>
	B2 General Industrial	Use for the carrying on of an industrial process other than one falling within class B1.
	B8 Storage or distribution	Use for storage or as a distribution centre.

<b>Class C</b>		
	C1 Hotels	Use as a hotel, boarding or guest house where, in each case, no significant element of care is provided.
	C2 Residential institutions	a) Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)). b) Use as a hospital or nursing home. c) Use as a residential school, college or training centre.
	C2A Secure residential institutions	Use for the provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation or use as military barracks
	C3 Dwellinghouses	Use as a dwellinghouse (whether or not as a sole or main residence) by - a) a single person or by people to be regarded as forming a single household; b) not more than six residents living together as a single household where care is provided for residents; or c) not more than six residents living together as a single household where no care is provided to residents (other than a use within class C4).
	C4 Houses in multiple occupation	Use of a dwellinghouse by not more than six residents as a house in multiple occupation.
<b>Class D</b>		
	D1 Non-residential institutions	a) for the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner, b) as a creche, day nursery or day centre, c) for the provision of education, d) for the display of works of art

		<p>(otherwise than for sale or hire),</p> <p>e) as a museum,</p> <p>f) as a public library or public reading room,</p> <p>g) as a public hall or exhibition hall,</p> <p>h) for, or in connection with, public worship or religious instruction,</p> <p>i) as a law court.</p>
	D2 Assembly and leisure	<p>a) a cinema,</p> <p>b) a concert hall,</p> <p>c) a bingo hall or casino,</p> <p>d) a dance hall,</p> <p>e) a swimming bath, skating rink, gymnasium or area for other indoor or outdoor sports or recreations, not involving motorised vehicles or firearms.</p>

## Research

- 2.5 The University of the West of England (UWE) has undertaken a review of the UCO on behalf of the Welsh Government. The research explores whether any changes to the UCO and related parts of the GPDO are desirable to ensure it remains fit for purpose as a deregulatory tool.
- 2.6 The research report indicates many stakeholders wanted guidance and clarification of definitions, terminology, classifications and processes, rather than structural change to the legislation. The research did however identify some parts of the UCO where change is necessary to respond to current land use issues within Wales which are discussed in this section. Recommendations are made in relation to non-legislative change and for further research to support long term enhancement of the system. These latter recommendations are not taken forward as part of this consultation document.

## Part A

### Class A1 (shops) – Beauty Salons

- 2.7 Practice amongst LPAs varies with some considering beauty salons to fall within use class A1, some A2, and others considering it a unique use. Beauty salons (including nail parlours and tanning) are increasingly common in town centres and do not demonstrate significantly different land use characteristics or planning impacts to hairdressers, which are specified in use class A1. Such uses are part of modern town centre usage, sitting alongside retail and café uses.

2.8 The research 'Towards a Revised Retail Planning Policy for Wales' (April 2014) noted reduced importance of safeguarding A1 uses against non-retail uses, other than hot food takeaways. The retail research does not suggest competition for A1 premises from beauty salons will compromise the vitality or viability of centres across Wales. Instead, it is considered the flexibility to attract new tenants without the need to apply for planning permission will help to retain footfall in town centres. The small properties occupied by current out of centre beauty salons similarly is not anticipated to cause problems for town centres if taken over by other retail uses.

### **Proposal**

2.9 We propose to clarify beauty salons (including nail parlours and tanning shops) fall within use class A1.

**Q1 Do you agree beauty salons (and associated uses) should be included within use class A1 (shops)?**

### **A2 (Financial and Professional Services):**

2.10 Betting offices fall within use class A2 (financial and professional services) along with uses such as banks, estate agents, travel agents and solicitors offices.

2.11 There is evidence to suggest the overconcentration of betting offices reduces the diversity of the high street, impacting upon its vitality and viability<sup>3</sup>. A mix of uses sustains the vibrancy, attractiveness and viability of town centres. Planning Policy Wales (Edition 9) (PPW) states banks and financial institutions (uses within use class A2) provide important services and LPAs should encourage their retention in retail and commercial centres (PPW paragraph 10.3.4).

2.12 Retail and banking institutions are identified as attracting high footfall in town centres. However, as more banks and other financial institutions reduce their high street presence, betting offices are able to open in their place without requiring planning permission. The causal link established by research, between the overconcentration of betting offices and a reduction in footfall, and consequent impact on the vitality and viability of town centres, means there is a strong economic case for LPAs to have greater control over such uses.

### **Proposal**

2.13 It is proposed to remove betting offices from use class A2, so they become a unique use. This will enable the effects of each new betting office to be considered through the submission of a planning application.

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<sup>3</sup> A Fair Deal: Betting Shops, Adult Gaming Centres and Pawnbrokers in Brent. Camden Council

- 2.14 We do not want to lose the flexibility landowners currently have, to change a betting office to another A2 office or A1 retail use without needing a planning application. We therefore are proposing complementary new permitted development rights to maintain this flexibility (see paragraph 3.69).
- 2.15 It has been suggested an overconcentration of betting offices causes problem gambling or at least makes it worse. There is currently insufficient evidence to confirm a causal relationship. However, making this change to the UCO will enable future policy intervention through the planning system, should research identify public health issues with their concentration.

**Q2 Do you agree betting offices should be removed from use class A2?**

**A3 (Food and Drink):**

- 2.16 Over half of those surveyed to inform the UWE research felt the A3 use class needed to be changed in some way.

**Hot food takeaways**

- 2.17 In the UWE research, hot food takeaways were singled out by many as being detrimental to the health of high streets and town centres, with limited opening hours catering solely to a traditional night-time drinking economy. The creation of 'dead' frontages during the daytime was perceived as an issue. Some respondents stated takeaways can lead to vacant upper floors, due to the noise, odour and nuisance issues they could cause for potential residents.
- 2.18 Takeaways can be differentiated from other uses in use class A3 because they raise different environmental issues, such as litter, longer opening hours, and different traffic and pedestrian activity.

**Proposal**

- 2.19 As discussed in paragraph 2.2, the UCO establishes groups of uses which have similar planning impacts. We are concerned about the disparity of the planning impacts of a hot food takeaways compared with other food and drink uses. We therefore propose to create a new use class solely for hot food takeaway uses. Permitted development rights would then allow changes to the other A classes, but not allow a material change to the new class.

**Q3 Do you agree hot food takeaways should be placed in their own use class?**

**Drive-through facilities and operation of a delivery service**

- 2.20 The UWE research identified the definition of each use class as one of the most common problems to be addressed in the UCO. We anticipate a new Hot Food Takeaway Use Class would raise issues about whether uses fall within it, when they include both a takeaway service and provision to eat-in. This will be a

matter of judgement for the decision maker based on the individual circumstances in each case. However, we wish to remove doubt in relation to uses which include a 'drive through' facility.

2.21 In paragraph 2.4 we propose changes to protect public houses. Currently there is the potential for a restaurant or public house use to change to a drive through take away and restaurant without needing planning permission. We consider the loss of a public house requires careful consideration in each case through the submission of a planning application. In addition, such a change of use would mean different characteristics and impacts occurring, with parallels to the arguments presented in paragraph 2.17 relating to the creation of a new Hot Food Takeaway use class.

### **Proposal**

2.22 The need to manage the potential for litter, longer opening hours, and different traffic and pedestrian activity leads us to propose including 'use as a drive through restaurant' within the new hot food takeaway use class.

2.23 An increasingly common feature of takeaways is the provision of a delivery service which generates a movement pattern similar to customers picking up their food. To maintain clarity in the description we propose to specify the provision of delivery service means the use would fall within this class. This would apply whether the use solely comprised of consumption off the premises, or a mixed use takeaway and restaurant use.

**Q4 Do you agree restaurants and takeaways with drive-through facilities should be grouped with hot food takeaways?**

### **Drinking Establishments and Restaurants**

2.24 The past twenty years has seen a significant reduction in the number of public houses in the UK. Pubs play a valuable role in communities, particularly those in a rural setting where they are commonly used to provide a range of functions and help make rural communities sustainable.

2.25 Currently, the UCO enables the change of use of public houses to other uses within A3 without the need for a planning application. Part 3 of Schedule 2 to the GPDO also grants planning permission for the change of use of A3 uses to A2 (financial and professional services) and A1 (shops).

2.26 Protection may not be necessary in areas where there is sufficient concentration of similar uses, such as within city centre locations. However, measures are considered necessary for public houses in small towns and rural settlements where economically sustainable businesses have a wider community importance and where their loss would impact upon the vitality of the community; so called 'community pubs'.

- 2.27 The UWE report recommends the use of legislation to introduce Assets of Community Value (ACV), together with the removal of permitted development rights for buildings listed as assets, as the most appropriate means of protecting community pubs. There is currently no provision for this in Wales. The alternative recommendation in the research is to change the UCO, to place all drinking establishments in their own use class with no permitted changes granted by the GPDO.
- 2.28 Clarification and definition are important to improve the UCO. In order to place public houses in their own use class, it is necessary to define the use. In many instances, it is difficult to differentiate between a public house and a restaurant. Many public houses have a significant element of dining which operates during the same hours as the serving of drinks.
- 2.29 In England, drinking establishments fall within use class A4 and restaurants fall within use class A3 (food and drink). Despite the creation of a separate use class, whether a use falls within class A4 or A3 remains unclear and could result in inconsistent application of the law due to the scope of class A3. Even though a business could be described as a public house, it could fall within A3 by virtue of supplying food and drink as an integral part of the business, which are characteristics similar to those of a restaurant. This is a 'loophole' which is difficult to close.
- 2.30 In an attempt to address problems with the relationship between use classes A3 and A4, England introduced a new class of permitted development allowing development consisting of a change of use of a building and any land within its curtilage from a use falling within Use Class A4 (drinking establishments) to a mixed use falling within Class A4 and Class A3 (restaurants and cafes). This new grouping is referred to as "drinking establishments with expanded food provision". The amendment order also permits the new mixed use reverting back to a use within use class A4. This change does not, however, address circumstances where a public house may already be operating within use class A3.

### **Proposal**

- 2.31 Due to the difficulties of definition, it is proposed to place public houses and restaurants within the same new use class A4 (restaurants and drinking establishments). The planning impacts of both uses are comparable therefore the new use class fits with the principle the UCO of only groups uses with similar impacts and addresses the problem of clearly distinguishing between the uses.
- 2.32 To complement the new use class it is proposed to change permitted development rights to afford greater protection to public houses in communities where their loss would unacceptably affect local amenity. These proposed changes to the GPDO are set out in paragraph 3.56 in relation to changes of use and paragraph 3.108 in relation to demolition.



**Q5 Do you agree with the proposal to place drinking establishments and restaurants in the same use class?**

**Q6 If you answered no to Q5, how should the UCO be amended to protect public houses in Wales?**

**Other Food and Drink uses**

2.33 One of the difficulties relating to the current operation of the A3 use class is its relationship with the A1 use class. It is possible in certain circumstances for premises having A1 use class characteristics to change to a use displaying A3 use characteristics, without a material change occurring. Coffee shops and sandwich bars are examples of uses causing contention and confusion. The A1 use class includes the use ‘for the sale of sandwiches or other cold food for consumption off the premises’. It is often a case of fact or degree whether sandwich bars, bakeries and coffee shops fall within an A1 use when small amounts of hot food start being sold or customers are allowed to eat on the premises.

2.34 Table 2 below sets out how different food uses relate to whether food is cooked on the premises, whether it is served hot or cold and whether it is consumed on the premises. These are the key factors currently used to differentiate uses.

2.35 In Table 2, a ‘café’ is assumed to be different from a restaurant by having primarily daytime opening hours, a more limited menu and it is assumed a restaurant does not offer take-away facilities. However, practice is not this clear, which highlights the difficulty these uses present when drafting legislation. We want the UCO to be drafted as clearly as possible to avoid inconsistency in its implementation.

<b>Table 2: Analysis of food and drink uses</b>					
		<b>Food consumption on or off premises</b>			
		<b>Eat in</b>	<b>Both</b>	<b>Eat out</b>	
<b>Temperature of food and preparation location</b>	<b>Cold food cooked elsewhere</b>	Café Restaurant	Sandwich bar Cafe	Grocer	
				[Off-licence]	
	<b>Cold food cooked on premises</b>	Café Restaurant	Sandwich bar Café	Bakery	
	<b>Hot food</b>		Restaurant	Bakery Café	Takeaway
			[Drinking establishments]	Drive through restaurant	

- 2.36 Uses in square brackets in the table are primarily drink based uses.
- 2.37 The table includes groupings of uses separated by thicker lines. This is our suggestion of how uses with similar planning impacts could be grouped. In the previous section (paragraph 2.19) we proposed a new Hot Food Takeaway Use Class which is represented in the bottom right corner of the table. The top right corner of the table represents the current A1 use class for shops.
- 2.38 The bottom left corner enclosed by the zig-zag line is the Restaurant and Drinking Establishment use class proposed in paragraph 2.31. A zig-zag line is used because the distinction between this use class and the remaining uses in the top left corner is less clear, and we particularly wish to obtain your views on whether restaurants and drinking establishments should be separate from cafes and sandwich bars.
- 2.39 Cafes, coffee shops, sandwich bars (including popular high street bakeries) are common features of the modern high street and have near-identical planning impacts. Cafes and sandwich bars have been noted by research to be increasingly important to maintaining footfall in town centres, contributing to their vitality and viability. There is therefore merit in seeking to encourage these daytime food uses in town centre shopping areas, while seeking to mitigate the effects an over-concentration which restaurants and takeaways may have. Getting the mix of uses right is a matter for the LPA, however, it is important they have the necessary tools to achieve a satisfactory balance.

### **Proposal**

- 2.40 We are proposing a new Café and Sandwich Bar Use Class, intended to include the uses in the top left corner of Table 2, with the aim of supporting daytime vitality and viability of high streets. We want the description of the new class to be as clear as possible, distinguishing it from other use classes selling food and drink. Its role supporting the high street would be complemented by changes to the GPDO, permitting a change from an A1 use to this new use class and back again, which would provide flexibility for the owners of town centre properties but could be withdrawn in specific cases by LPAs where issues arise.

### **Food consumption on or off the premises**

- 2.41 We propose to specifically exclude the consumption of food on the premises from the description of the A1 use class. Many large high street department and clothes shops have cafes. We recognise this exclusion will not eliminate the need to consider whether such café use is ancillary to the main use or whether it constitutes a mixed use. However, we consider the GPDO permitted change noted in paragraph 2.40 above would reduce the occasions when such a judgment is required.
- 2.42 In seeking to protect public houses, we have proposed to include restaurants within the same use class as drinking establishments. We therefore propose to define a restaurant as a place where food is solely consumed on the premises.

We consider the character of a premises is likely to change significantly when a takeaway element is introduced, for example parking and traffic movements.

### **Hours of operation**

2.43 Above we outline how we consider the new class would be distinguished from A1 uses and restaurants. Another distinction required is with the new Hot Food Takeaway Use Class. To achieve the intention of the new Café and Sandwich Bar Use Class, we propose to include daytime hours of operation within the description. This is to ensure premises are open for at least part of the day, to avoid the problem of 'dead frontages' noted by research. We are proposing this use class should only be serving customers between 6am and 7pm. Your views on the appropriateness of this timescale are welcomed.

2.44 Many takeaways include seating within their premises and some such as the high street stores of multi-national burger retailers could be called a mixed takeaway and restaurant use. We are not proposing to exclude such mixed uses from this class but wish to ensure they are contributing to the daytime economy. If such a mixed use operates all day and evening we are proposing they are included within the description of the A5 Hot food takeaway class.

2.45 We recognise hours of operation could be problematic in identifying a material change of use, as just being described in different use classes is not enough in itself to trigger the need for planning permission. The Courts have set a relatively high bar in that a use must be substantially different. Although the planning impacts of a mixed takeaway and restaurant use are likely to be similar at all times of the day, we consider the negative impacts on the vitality and viability of high streets of a use which does not open during the daytime and the impacts on amenity of evening openings may be sufficient to identify material differences. We welcome your views about how a distinction can be made between a daytime café use and mixed takeaway and restaurant use.

### **Distinction between restaurants and cafes**

2.46 In Table 2, the left hand column identifies uses where consumption is on the premises. The zig-zag line separated these uses between those which serve hot food and those which serve solely cold food. However, we have not been able to easily distinguish, in practical terms, the difference between a café and restaurant, where all consumption is on the premises. Also, the ability to heat food easily in a microwave means even the smallest of cafes can serve hot food, making the distinction of temperature redundant.

2.47 There may be a floorspace threshold which captures the essence of a café, which could be used to enable uses solely comprising on premises consumption to be included with this use class. We currently do not have evidence to support their inclusion on this basis but would welcome your views on this.

## Summary

2.48 Our proposal is the new Café and Sandwich Bar Use Class must include both consumption on and off the premises. If it is only on premises, it is a restaurant, and off-premises is a takeaway. However, as it is primarily daytime uses we are seeking to include in this class, we are proposing food should only be served between 6am and 7pm.

2.49 Mixed takeaway and restaurant uses which open outside the above times would be included within the proposed A5 Hot Food Takeaway Use Class. This also provides greater ability for LPAs to manage the composition of high streets, permitting greater control over the use of premises within defined primary retail/shopping areas, and enabling action to prevent the saturation of key retail areas with food/drink uses.

**Q7 Do you agree with the principle of a new Café and Sandwich Bar Use Class?**

**Q8 Do you consider this new use class will help the flexible management of town centre uses and contribute to their vitality and viability? Please explain your view.**

**Q9 Will the clarification of the A1 Use Class in relation to consumption on the premises help understanding of the order or cause additional confusion to users of the planning system?**

**Q10 Is a timescale appropriate to help define this use class? If yes, is 6am to 7pm suitable or are there more appropriate times?**

**Q11 We welcome your views about how a distinction can be made between a daytime café use and mixed takeaway and restaurant use.**

**Q12 Should cafes solely catering for on premises consumption be included in this use class? If so, how can a clear distinction be made between restaurants and café uses?**

**Q13 Should a floorspace threshold be used to help define this use class? If yes, what threshold would be appropriate and why?**

## **Part B**

- 2.50 There are no proposals for policy reform to the B use class, other than to 're-number' the class.
- 2.51 There used to be eight different use classes within Part B of the Schedule to the UCO. The former B3 use class (special industrial group A) was omitted from the 1987 Order by the Town and Country Planning (Use Classes) (Amendment) Order 1992. The former B4 to B7 use classes (special industrial groups B, C, D and E) were omitted by the Town and Country Planning (Use Classes) (Amendment) Order 1995.
- 2.52 Whilst planning professionals may understand the circumstances as to why the B Class is presently structured in this manner, it can be a source of confusion for other users of the planning system, especially if viewing an un-amended version of the 1987 Order.

### **Proposal**

- 2.53 As part of consolidating the UCO, it is proposed to re-number B8 use class (Storage and Distribution) as B3 (Storage and Distribution). This change will provide greater clarity for non-professionals.

### **Q14 Do you agree with the proposal to re-number B8 (Storage and Distribution) as B3 (Storage and Distribution)?**

## **Unique Uses**

- 2.54 We refer to uses which do not fall within the classes defined in the UCO as unique uses (previously referred to as sui generis).
- 2.55 Article 3(6) of the UCO lists some specific uses which do not fall within a class and are therefore unique uses. The list is not exhaustive.
- 2.56 Where uses from different use classes operate in the same space, without any physical separation, they form a unique use. The possible variety of mixed uses is one reason why it would not be possible or desirable to capture all operational uses within legislation. There are however some additional uses which we consider would be useful to include in the consolidated UCO to provide clarity for professionals and stakeholders.
- 2.57 The following proposal is in addition to removing betting offices from use class A2 so they become a unique use referred to in paragraph 2.13.

## Proposal

2.58 For the purpose of providing clarity, it is proposed to list a nightclub and a retail warehouse club (only open to members of that club) within the UCO to confirm their status as unique uses.

**Q15 Do you agree use as a nightclub should be specified within the UCO as a unique use?**

**Q16 Do you agree use as a retail warehouse club should be specified within the UCO as a unique use?**

## Summary of Use Class Order Proposals

2.59 Table 3 provides a summary of the proposed use classes.

<b>Table 3 : Proposed classification of Uses</b>	
<b>Use Class</b>	<b>Purpose</b>
<b>Class A</b>	
A1 Shops	<ul style="list-style-type: none"> <li>k) for the retail sale of goods other than hot food,</li> <li>l) as a post office,</li> <li>m) for the sale of tickets or as a travel agency,</li> <li>n) for the sale of sandwiches or other cold food for consumption off the premises,</li> <li>o) for hairdressing,</li> <li>p) for beauty treatments</li> <li>q) for the direction of funerals,</li> <li>r) for the display of goods for sale,</li> <li>s) for the hiring out of domestic or personal goods or articles,</li> <li>t) for the washing or cleaning of clothes or fabrics on the premises</li> <li>u) for the reception of goods to be washed, cleaned or repaired</li> <li>v) where the sale, display or service is to visiting members of the public</li> </ul>
A2 Financial and professional services	<ul style="list-style-type: none"> <li>d) financial services, or</li> <li>e) professional services (other than health or medical services), or</li> <li>f) any other services which it is appropriate to</li> </ul>

		provide in a shopping area  where the services are provided principally to visiting members of the public
	A3 Café and Sandwich Bars	Use for the sale of hot or cold food between the hours of 6am to 7pm with seating for consumption: a) on the premises, or b) on the premises with limited sales for consumption off the premises
	A4 Restaurants and Drinking Establishments	a) Use as a public house, wine-bar or other alcoholic drinking establishment b) Use for the sale of food and drink for consumption on the premises.
	A5 Hot food Takeaways	a) Use for the sale of hot food for consumption off the premises. b) Mixed take-away and restaurant use with drive-through facilities.
<b>Class B</b>		
	B1 Business	d) Offices excluding those in A2 use e) Research and development of products or processes f) Light industry  being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.
	B2 General Industrial	Use for the carrying on of an industrial process other than one falling within class B1.
	B3 Storage or distribution	Use for storage or as a distribution centre.
<b>Class C – No changes proposed</b>		
<b>Class D – No changes proposed</b>		
<b>Unique Uses</b>		
	No class specified in the Schedule	a) as a theatre, b) as an amusement arcade or centre, or a funfair,

	includes use:	<ul style="list-style-type: none"> <li>c) as a launderette,</li> <li>d) for the sale of fuel for motor vehicles,</li> <li>e) for the sale or display for sale of motor vehicles,</li> <li>f) for a taxi business or business for the hire of motor vehicles,</li> <li>g) as a scrapyard, or a yard for the storage or distribution of minerals or the breaking of motor vehicles,</li> <li>h) for any work registrable under the Alkali, etc. Works Regulation Act 1906,</li> <li>i) as a hostel</li> <li>j) as a waste disposal installation for the incineration, chemical treatment (as defined in <a href="#">Annex I</a> to Directive 2008/98/EC under heading D9) or landfill of hazardous waste as defined in regulation 6 of the Hazardous Waste (Wales) Regulations 2005</li> <li>k) as a retail warehouse club being a retail club where goods are sold, or displayed for sale, only to persons who are members of that club;</li> <li>l) as a night-club,</li> <li>m) as a betting office</li> </ul>
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## General Questions about the Use Classes Order

- Q17** Other than the changes discussed above, does the UCO remain fit for purpose as a deregulatory tool?
- Q18** Are there any other changes not referred to in this consultation which you wish to see made to the UCO? If yes, please specify and provide justification/evidence for the proposed change.



### **3. PERMITTED DEVELOPMENT ORDER**

- 3.1 Permitted development is development which can be undertaken without the need to apply for planning permission, as it is already permitted under the GPDO. The GPDO contains 43 parts which grant planning permission for a wide range of developments across many different sectors.
- 3.2 This consultation paper provides details of the areas where the Welsh Government is seeking to further extend permitted development rights. The purpose of the changes to permitted development rights is to reduce the number of minor and uncontentious planning applications that are submitted to LPAs. Reducing the burden on LPAs allows resources to be concentrated on more complex developments. It is recognised there are some cases, where a national permission may not be appropriate. The GPDO provides flexibility to amend the national approach, enabling LPAs to remove individual permitted development rights which may be causing local issues.
- 3.3 Since the IAG report identified the potential for more minor developments to benefit from 'permitted development rights', we have made changes to the GPDO enabling larger extensions of domestic and non-domestic buildings and the installation of many forms of microgeneration equipment.
- 3.4 More recently we commissioned research looking at extending permitted development rights for micro-hydro generation, and telecommunications development. We have also been considering the growing demand for electric vehicle charging points, together with simplification of procedural arrangements to inform our latest proposals for change to the GPDO.

#### **Article 4 Directions**

- 3.5 Article 4 Directions are one of the tools available to LPAs which allow them to respond to the particular needs of their areas. They provide LPAs with the ability to withdraw 'permitted development' rights which would otherwise apply by virtue of the GPDO. An Article 4 Direction does not stop development. Instead it requires planning permission to be obtained from the LPA so the planning impacts of the development can be considered before a decision is taken on whether it can proceed.
- 3.6 LPAs should consider making Article 4 Directions only in exceptional circumstances where evidence suggests the exercise of permitted development rights would harm local amenity or the proper planning of the area. Article 4 Directions can also be made by the Welsh Ministers.
- 3.7 In Wales, the GPDO currently provides for two types of Article 4 Directions:

### **Article 4(1)**

- 3.8 Under Article 4(1) an LPA or the Welsh Ministers can restrict any permitted development rights in any Part, Class or paragraph in Schedule 2 of the GPDO (except Class B of Part 22 (mineral exploration) or Class B of Part 23 (removal of material from mineral-working deposits)). The Direction is not subject to public consultation. A direction usually takes effect once approved by the Welsh Ministers, although such approval is not required for development approved under Parts 1 to 4 or Part 31.

### **Article 4(2)**

- 3.9 Under Article 4(2) an LPA can make a direction to restrict certain permitted development rights in Conservation Areas. The direction must be subject to at least 21 days consultation, but does not need approval from the Welsh Ministers. Unless confirmed by the LPA, a direction under Article 4(2) expires at the end of 6 months from the date it was made.
- 3.10 Evidence in the research undertaken by UWE (see paragraph 2.5) indicates for many LPAs, Article 4 Directions are difficult, time-consuming and costly to develop. However, the review recommends the Welsh Government support the use of Article 4 Directions as a means for LPAs to address local circumstances in response to changes to permitted development rights. Simplification of the Article 4 process may also lead to wider usage.
- 3.11 We accept the review recommendations and want to support LPAs in controlling the exercise of permitted development rights where this would harm local amenity or the proper planning of the area. However, the use of Article 4 Directions is currently constrained by the need to secure the Welsh Ministers' approval (with the exception of specified types of development in conservation areas).

### **Proposal**

- 3.12 It is proposed to remove the need for approval of the Welsh Ministers for all Article 4 Directions made by LPAs. However, we want to retain a reserve power for the Welsh Ministers to modify or cancel an Article 4 Direction made by a LPA, subject to certain exemptions, and retain the power for the Welsh Ministers to make their own Article 4 Direction.
- 3.13 It is proposed to make provision for two types of Article 4 Direction; Directions with immediate effect ("Immediate Directions") and Directions without immediate effect ("Non-immediate Directions").

### **Directions with immediate effect**

- 3.14 In cases when LPAs need to act quickly in order to deal with a threat to the amenity of an area, we want LPAs to have the power to make a direction removing permitted development rights immediately.

3.15 The policy intention is that Immediate Directions can only be used to withdraw a small number of permitted development rights. We want Directions which have immediate effect to only apply to the following classes of development in the GPDO:

- (i) Part 1 – Development within the curtilage of a dwellinghouse
- (ii) Part 2 – Minor Operations
- (iii) Part 3 – Changes of Use
- (iv) Part 4 – Temporary Buildings and Uses
- (v) Part 31 – Demolition of Buildings
- (vi) Any Direction within the whole or part of any conservation area and the development as currently described in article 4(5) of the Town and Country Planning (General Permitted Development) Order 1995.

3.16 A Direction with immediate effect would last six months and would then expire unless confirmed by the LPA following consultation.

3.17 The general procedure is set out in Appendix A of this document.

#### **Directions without immediate effect**

3.18 If LPAs wish to remove permitted development rights which do not fall within the classes of development identified above, other than Class B of Part 22 or Class B of Part 23 in the existing GPDO, a “Non-immediate Direction” will need to be issued.

3.19 The general procedure is set out in Appendix A of this document.

#### **Directions restricting certain minerals permitted development**

3.20 Article 4(7) of the GPDO makes provision for Directions restricting permitted development under Class B of Part 22 or Class B of Part 23. This provision will be unchanged.

#### **Exemptions**

3.21 We want to replicate article 4(3) of the GPDO to ensure permitted development rights related to national concerns, safety, and maintenance work for existing facilities cannot be withdrawn.

#### **Statutory Undertakers**

3.22 We want to replicate article 4(4) of the GPDO in order to ensure that if a Direction would affect certain statutory undertakers’ permitted development rights, this is explicitly stated in the Direction.

#### **Role of the Welsh Ministers**

3.23 It is proposed to remove the need for the Welsh Ministers to confirm certain Article 4 Directions. Instead we want LPAs to confirm all Article 4 Directions (except those made by the Welsh Ministers) in the light of local consultation.

3.24 However, we want the Welsh Ministers to retain certain reserve powers in relation to Article 4 Directions:

- The power to make, cancel or vary a Direction, subject to the same limitations and exemptions as LPAs.
- A power to make a Direction to cancel most Article 4 Directions made by LPAs at any time before or after confirmation, except Article 4 Directions within whole/part of a Conservation Area for development described in article 4(5) of the existing GPDO (these are currently article 4(2) Directions which do not require approval from the Welsh Ministers)

### **Modification and cancellation of article 4 Directions**

3.25 As provided for by Article 8 of the GPDO, we want to provide LPAs and the Welsh Ministers with the ability, by making a subsequent Direction, to cancel or vary an Article 4 Direction made by them.

**Q19 Do you agree with the proposals for amending Article 4 directions? If not, how could the proposal be improved?**

### **Prior Approval**

3.26 Determination periods for prior approval are specified in the relevant class, being 28 days (Parts 6 & 7) and 56 day periods (Part 24) respectively. We consider, for most prior approval applications, the timescales remain appropriate. However, there may be circumstances when a complex proposal may require additional time for the LPA to consider properly.

### **Proposal**

3.27 It is proposed to enable longer determination periods to be agreed by the applicant and the LPA in writing.

**Q20 Do you agree that developers and LPAs should be able to agree longer determination periods for the consideration whether prior approval is required?**

## **Part 1 Development within the Curtilage of a Dwellinghouse**

### **Houses in Multiple Occupation (HMO)**

- 3.28 While our changes to the GPDO elsewhere in this document seek to expand the scope of permitted development rights there are circumstances where we consider clarity of the law or changed land use patterns requires a review of the extent of the GPDO. The extension of HMOs is one such development type.
- 3.29 Permitted development rights to extend a dwellinghouse do not exist where the building has been sub-divided into flats. This is because the huge variation in how buildings can be sub-divided makes it difficult at a national scale to anticipate how extensions or alterations may affect the amenity of adjoining occupiers. Currently, for the purposes of the GPDO, a house in multiple occupation (HMO) is a dwellinghouse and therefore does benefit from permitted development rights. Therefore, an extension may affect the amenity of the occupiers of a HMO without there being scrutiny by the LPA. The need for such scrutiny is probably for the occupiers of an HMO compared to the occupier of a flat. The single land ownership of HMO means the interests of future occupiers are likely to have been considered in a more holistic way compared to two adjoining flats. However, there remains public interest in intervening in the design of such developments on the basis of maintaining a minimum standard of living conditions for future tenants as a result of changes to the external configuration of the building.
- 3.30 The external effects of an HMO use provide additional reasons for seeking to apply additional restrictions on HMOs. Article 2(3) of the Town and Country Planning (Use Classes) (Amendment) (Wales) Order 2016 introduced Use Class C4 (houses in multiple occupation) relating to the use of a dwellinghouse as an HMO as defined in section 254 of the Housing Act 2004. In broad terms, this use occurs where tenanted living accommodation is occupied by 3 to 6 people as their only or main residence and who are not related and share one or more basic amenities. HMOs which do not fall within use class C4 are a unique use.
- 3.31 The creation of a new use class for HMOs resulted from public concerns about the additional environmental impacts they cause compared to use of a dwelling by a family. The added potential for those environmental impacts to increase without being subject to scrutiny through a planning application is something we would like to avoid. The extension of a property used as an HMO may allow additional persons to live there. Due to the increased possibility of amenity and environmental impacts from such HMOs, it is considered LPAs should be able to manage these impacts through consideration of a planning application.

### **Proposal**

- 3.32 In order to enable better management of HMOs, it is proposed they should no longer benefit from permitted development rights granted by Part 1 of the GPDO.

**Q21 Do you agree that HMOs should not benefit from permitted development rights granted by Part 1 of the GPDO?**

**Class A**

- 3.33 Class A sets the criteria and conditions for the enlargement, improvement or other alteration of dwellinghouses.
- 3.34 Condition A3(a) specifies that the development is permitted by Class A subject to “the appearance of the materials used in the walls, roof or other element of any exterior work must so far as practicable match the appearance of the materials used in the majority of the equivalent element of the existing dwellinghouse”. Section 7 of the [Technical Guidance](#) issued by the Welsh Government provides guidance on how this condition should be interpreted.
- 3.35 The policy rational to this condition was to ensure additions permitted by Class A have a limited impact upon the visual amenity of the streetscene. However, despite the Technical Guidance, there remains the potential for this requirement to be interpreted in different ways by each LPA, reducing the certainty for householders of whether their extension requires planning permission. Uncertainty has also been noted in relation to whether certain cladding can be added to dwellings. A lack of clarity undermines the benefit of permitted development rights, if it forces the developer to check with the LPA their interpretation of the law before they start construction.
- 3.36 This condition may also be overly restricting as it equally applies to all development under Class A, including additions to the rear of dwellinghouses which may not be visible from the streetscene and therefore have no discernible impact outside of the curtilage of the property. The Technical Guidance already highlights some LPAs may consider a standard conservatory does not benefit from permitted development due to this condition, although it advises they do. Crucially, it may prevent the construction of modern-style additions which make use of innovative and sustainable materials.

**Proposal**

- 3.37 It is proposed condition A3(a) is removed from Class A, enabling additions to be constructed of any material considered appropriate by the householder.

**Q22 Do you agree that condition A3(a) relating the materials for Class A development should be removed?**

**Q23 If you answered no to Q22, should condition A3(a) be varied to allow more flexible use of materials for additions to the rear where there is no visual impact?**

## Class F

- 3.38 Class F permits the provision of a hard surface within the curtilage of a dwellinghouse. On areas forward of the principle elevation and between the principal elevation and a highway, porous or permeable materials must be used, unless surface water is directed to a porous or permeable area within the curtilage of the dwellinghouse.
- 3.39 Hard surfaces can lead to accelerated run-off of surface water, which can overload sewerage systems and in turn lead to increased risks of flooding.

### Proposal

- 3.40 It is proposed the existing permeability condition for hard surfaces should apply to **all** areas of new or replacement hard surfacing within the curtilage of the dwellinghouse, not just forward of the principle elevation.

**Q24 Do you agree with the proposed condition for the provision and replacement of hard surfaces within the curtilage of a dwellinghouse in Development Class F? If not, please suggest alternative approaches, restrictions or thresholds that could be adopted.**

## Class H

- 3.41 Class H permits the installation alteration or replacement of a microwave antenna on a dwellinghouse or within the curtilage of a dwellinghouse. This permitted development right permits the installation of up to 2 antennas, subject to restrictions on their size and position. Most commonly this permitted development right is used by householders to install television aerials and satellite dishes.
- 3.42 In the domestic energy market, 'smart' meter technology is being introduced. A smart meter is a new kind of gas and electricity meter that can digitally send meter readings to energy suppliers for more accurate energy bills. They use their own secure, wireless network as oppose to a traditional internet connection.
- 3.43 In some remote rural areas where there is a limited signal, an antenna may be required to boost the signal to ensure the smart meter can communicate with the network. The antenna measures a maximum of 695mm in height and 25.4mm diameter.
- 3.44 Such an antenna could fall under Class H. However, if a dwellinghouse has fully utilised their permitted development rights under class H by installing 2 other antenna, planning permission would be required.
- 3.45 A smart meter antenna is relatively small and unobtrusive and will only be required in limited numbers in very remote areas. The requirement for a planning application in these circumstances is considered to be disproportionate given the limited planning impact.

## Proposal

3.46 It is proposed to introduce permitted development rights for smart meter antenna. To comply, the height of the antenna should be no more than 700mm and its diameter 30mm. There shall be no siting criteria other than similar to criteria (d) of Class H, which restricts how an antenna can be installed on dwellinghouses within article 1(5) land or a World Heritage Site.

3.47 The maximum number of antenna permitted by Class H would be revised to exclude any smart meter antenna.

**Q25 Do you agree with the introduction of permitted development rights for the installation of smart meter antenna?**

## Part 2: Minor Operations

3.48 There is continuing growth in the numbers of electric vehicles (EV) and alternative fuel vehicles (ALV) being registered in the UK. As the technology develops, it is anticipated that demand for electric vehicles will continue to grow.

3.49 There are currently 517 charging points in Wales<sup>4</sup>. Few regulatory planning issues have arisen with regard to their installation. Accordingly, the planning system has not, so far, proved to be a serious barrier to uptake. Notwithstanding this, to maximise the switchover to electric vehicles, the installation of very large numbers of charging points will be necessary, and these will need to be easily accessible for public use.

		<b>Vehicles registered in the UK</b>					
<b>Vehicle Category</b>		<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
Plug-in	Pure electric	1,262	2,512	6,679	9,934	10,264	13,597
Plug-in	Other electric	992	1,072	7,821	18,254	26,643	33,666
Hybrid	Petrol-electric	23,616	26,017	34,494	40,707	50,261	71,522
Hybrid	Diesel-electric	1,284	3,114	2,721	3,873	1,741	1,001
Cars eligible for the Plug-In Car Grant		2,240	3,584	14,498	28,188	35,447	45,187
Total new cars registered		2,044,609	2,264,737	2,476,435	2,633,503	2,692,786	2,540,617

<sup>4</sup> <https://www.zap-map.com/statistics/> - As of 09 April 2018

<sup>5</sup> <https://www.smmmt.co.uk/> - The Society of Motor Manufacturers & Traders (SMMT)



3.50 Charging points that involve the installation of equipment (such as an upstand) which is located outside a building constitutes 'development' under the 1990 Act, whether located within public or private open-air car parks, within the front garden of a dwellinghouse or as part of an on-street parking bay. Additionally, an external plug installed on the face of an existing wall (e.g. of a dwellinghouse) may be deemed development under the Act if it is considered to materially affect the external appearance of the building.

### Proposal

<b>Table 5: Proposed permitted development rights for electric vehicle charging points</b>
<b>The installation, alteration or replacement, within an area lawfully used for off-street parking, of an electrical outlet mounted on a wall for recharging electric vehicles.</b>
Development is not permitted if the outlet and its casing would - <ul style="list-style-type: none"> <li>a) exceed 0.2 cubic metres;</li> <li>b) face onto and be within 2 metres of a highway; or</li> <li>c) be within a site designated as a scheduled monument;</li> </ul>
<b>The installation, alteration or replacement, within an area lawfully used for off-street parking, of an upstand with an electrical outlet mounted on it for recharging electric vehicles.</b>
Development is not permitted if the upstand and the outlet would— <ul style="list-style-type: none"> <li>a) exceed 1.6 metres in height from the level of the surface used for the parking of vehicles;</li> <li>b) be within 2 metres of a highway;</li> <li>c) be within a site designated as a scheduled monument; or</li> <li>d) result in more than 1 upstand being provided for each parking space.</li> </ul>

3.51 To facilitate the installation of a national network of electric vehicle charging points, it is proposed to amend Part 2 of Schedule 2 to the GPDO to permit the installation of infrastructure for charging points within both public and private car parking areas. The proposed limits to the permitted development right are summarised in Table 4.

**Q26 Do you agree with the permitted development proposals for electric vehicle charging infrastructure?**

## **Part 3: Change of Use**

- 3.52 Part 3 of Schedule 2 to the GPDO grants permission for specified changes of use to take place between use classes.
- 3.53 In response to the proposed amendments to the UCO outlined in section 2 of this consultation, a new Part 3 is necessary to maintain flexibility to move from one class to another where impact is equal to or less than the previous use.
- 3.54 A summary of the proposed permitted changes of use are set out in Table 5.
- 3.55 The general rationale for allowing changes of use between classes is that the changes result in no environmental impacts, or result in improvements. The Welsh Government intends to continue with the permitted change to use class A1 (retail) from uses such as cafes and takeaways to promote retail development, particularly within town centres. Similarly, the permitted change to use class A2 (financial and professional services) from existing food and drink uses will remain. It is also proposed to extend permitted changes from A3 and A5 uses to A4 uses to retain the flexibility that currently exists.

### **Drinking Establishments and Restaurants**

- 3.56 The Welsh Government is not seeking to create permitted development rights to change from the new use class A4 (drinking establishments and restaurants). The current permitted change from A3 to other Class A uses means public houses can be used for other retail or service uses without the need for planning permission. The loss of public houses was not an issue when they were in plentiful supply in every city, town and village. The industry, however, has been subject to contraction over the past twenty years, which has resulted in a significant loss of such uses sometimes to the detriment of vitality and social cohesiveness of communities.
- 3.57 Whilst protection is not necessary in areas where there is sufficient concentration of drinking establishments, protection is necessary for public houses in small towns and rural settlements. Public houses can play a valuable role in communities, particularly those in a rural setting where they are commonly used to provide other functions and help make rural communities sustainable. The existing permitted changes mean the importance of their community benefits are not considered through a planning application and are not preventing their loss.
- 3.58 Planning permission is required for a material change in use. What is material is restricted to factors relevant to town and country planning, which makes it difficult to distinguish between a 'community' pub and other drinking establishments in a way which would be enforceable through the planning system. The protection proposed through the UCO must therefore be applied to all drinking establishments and, as a result of the proposed new grouping with restaurants, the protection would also apply to restaurants. The UWE report advised that, whilst potentially over-regulating, withdrawing all permitted

development rights from public houses was the only mechanism available to afford protection to community pubs. A planning application will enable LPAs to fully assess the impact of the development, assessed against relevant policies regarding the protection of rural community facilities in Local Development Plans.

3.59 Draft Edition 10 of Planning Policy Wales (PPW)<sup>6</sup> references the important role public houses have in local communities and specifies the social function, in addition to the economic function, of public houses should be taken into account when considering applications for a change of use into other uses.

**Proposal**

3.60 It is proposed that there will be no permitted changes from public houses and restaurants to alternative uses.

**Q27 Do you agree that there should be no permitted changes of use from the new use class A4 (drinking establishments and restaurants)?**

**Hot Food Takeaways**

3.61 The UWE report identified concentrations of hot food takeaways as detrimental to the health of high streets and town centres, due to their limited opening hours catering to a traditional night time economy and subsequent environmental impacts such as noise, litter and odour. In order to manage the impact, it is proposed hot food takeaways are placed within in their own use class (see paragraph 2.19) and that there are no permitted changes to a hot food take away.

3.62 Under its current grouping in use class A3, hot food takeaways are permitted by the GPDO to change to A1 (shops) or A2 (financial and professional services). Hot food takeaways can also change to another use grouped within A3, such as a restaurant or a public house.

**Proposal**

3.63 To maintain existing flexibility, it is proposed that there are permitted changes from the new hot food use class to:

- A1 (shops),
- A2 (financial or professional services)
- A3 (Cafes and Sandwich Bars) and A4 (Drinking establishments and restaurants).

3.64 There will be no permitted changes to an A5 use for the reasons stated in paragraph 3.61.

**Q28 Do you agree with the proposed permitted changes from hot food takeaways (A5)?**

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<sup>6</sup> <https://beta.gov.wales/planning-policy-wales-edition-10>

## **Mixed use – A1/A2/betting office with up to 2 flats**

3.65 Class F of Part 3 currently permits the provision of a single residential flat in addition to a Class A1 (Shops) or Class A2 (financial and professional services) use, subject to conditions. Class G permits the reversal of any changes made under Class F.

3.66 It is accepted that there is a need to increase the rate of house-building in Wales and make housing supply more responsive to changes in demand. There is an opportunity to use the GPDO, albeit in a limited way, to contribute to housing supply through permitted changes of use.

### ***Proposal***

3.67 It is proposed to adopt this change in Wales to incentivise the conversion to housing of vacant space above retail units in town centres and elsewhere and create the opportunity to bring vacant and underused properties back into economic use, and at the same time contribute to the delivery of more homes.

3.68 The Welsh Government would expect such conversions could often be undertaken without requiring any other form of planning permission, but if external works (such as separate access) were needed, a planning application would need to be made.

**Q29 Should the permitted development rights be extended to permit two flats with a betting office or part of a mixed A1 or A2 use?**

## **Betting Office**

3.69 Under its current grouping in use class A2, Class D of Part 3 permits the change of use of a betting office with a display window at ground floor level to a use falling within use class A1 (shops). A betting office can also change to any other use falling with use class A2 (financial and professional services) as this is not deemed to be development.

### **Proposal**

3.70 As a betting office is to be removed from use class A2 (see paragraph 2.13), to maintain the existing flexibility, it is proposed that permitted changes of use from a betting office include to:

- A1 (shops) with a display window at ground floor level
- A2 (financial or professional services)
- mixed use containing a betting shop and up to two flats

**Q30 Do you agree with the proposed permitted changes from a betting office?**

## Car Showrooms

3.71 The UWE report recommended the PD rights afforded to car showrooms in Wales should be removed. The existing permitted development right for car showrooms to change to A1 units has in some instances been detrimental, as this has led to new retail uses being located in unsustainable and inappropriate locations. Alternative retail uses have different impact implications to a car showroom use; in some instances a more intensive use, such as a small supermarkets. These types of use could lead to additional vehicle movements, more extensive delivery movements, noise and disturbance. Such variation of impact will vary significantly between retail use types but the potential for a significant variation does exist in this instance given the nature and size of these units and as such it is a valid cause for removing this current permitted development right, allowing LPAs to fully consider the planning impacts of future proposals for change of use.

### Proposal

3.72 Permitted changes of use should be based on the movement from one use to another where impacts are comparable. As this does not appear to be the case, it is proposed that permitted development rights for the change of use of car showrooms to businesses falling within use class A1 is not restated in the consolidated GPDO. The change of use of a car showroom to an alternative use would require planning permission.

**Q31 Do you agree that permitted development rights for the change of use of car showrooms should not be restated in the consolidation GPDO?**

<b>Table 6: Summary of proposed changes to new Part 3 Change of Use</b>	
<b>Current permitted development</b>	<b>Proposed permitted development</b>
<b>Use Class A</b>	
Changes relating to the number of flats permitted above A1 and A2 uses	
<p><b>A1 (Shops)</b> permitted change to</p> <ul style="list-style-type: none"> <li>- Mixed use of A1 (Shops) and a single flat (C3 Dwellinghouse)* [GPDO Class F(a)]</li> </ul>	<p><b>A1 (Shops)</b> permitted change to</p> <ul style="list-style-type: none"> <li>- Mixed use of A1 (Shops) and up to <b>2 flats</b> (C3 Dwellinghouse)* [Replaces GPDO Class F(a)]</li> </ul>
<p><b>A2 (Financial and Professional Services)</b> Permitted change to</p> <ul style="list-style-type: none"> <li>- A1 (Shops) <i>with a display window at ground floor level</i> [GPDO Class D]</li> <li>- Mixed use of A1 (Shops) <i>with a display window at ground floor level</i> and a single flat (C3 Dwellinghouse) [GPDO Class F(c)]</li> </ul>	<p><b>A2 (Financial and Professional Services)</b> Permitted change to</p> <ul style="list-style-type: none"> <li>- A1 (Shops) <i>with a display window at ground floor level</i> [No change]</li> <li>- Mixed use of A1 (Shops) <i>with a display window at ground floor level</i> and up to <b>2 flats</b> (C3 Dwellinghouse)* [Replaces GPDO Class F(c)]</li> </ul>

<ul style="list-style-type: none"> <li>- Mixed use of A2 (Financial and Professional Services) and a single flat (C3 Dwellinghouse) [GPDO Class F(b)]</li> </ul>	<ul style="list-style-type: none"> <li>- Mixed use of A2 (Financial and Professional Services) and up to <b>2 flats</b> (C3 Dwellinghouse)* [Replaces GPDO Class F(b)]</li> </ul>
<p><b>* Note:</b></p> <ul style="list-style-type: none"> <li>- some or all of the parts of the building used for any purposes within Class A1 or Class A2, as the case may be, shall be situated on a floor below the part of the building used for flats;</li> <li>- where the development consists of a change of use of any building with a display window at ground floor level, the ground floor shall not be used in whole or in part as a flat;</li> <li>- the flats shall not be used otherwise than as a dwelling (whether or not as a sole or main residence) - <ul style="list-style-type: none"> <li>a. by a single person or by people living together as a family, or</li> <li>b. by not more than six residents living together as a single household (including a household where care is provided for residents).</li> </ul> </li> <li>- The flats shall not be used as Houses of Multiple Occupation.</li> </ul>	
<p><b>Mixed use of A1 (Shops) with a display window at ground floor level and a single flat (C3 Dwellinghouse)</b> Permitted change to</p> <ul style="list-style-type: none"> <li>- A1 (Shops) [GPDO Class G(a)]</li> </ul>	<p><b>Mixed use of A1 (Shops) with a display window at ground floor level and up to 2 flats (C3 Dwellinghouse)</b> Permitted change to</p> <ul style="list-style-type: none"> <li>- A1 (Shops) † [Replaces GPDO Class G(a)]</li> </ul>
<p><b>Mixed use of A2 (Financial and Professional Services) and a single flat (C3 Dwellinghouse)</b> Permitted change to</p> <ul style="list-style-type: none"> <li>- A2 (Financial and Professional Services) [GPDO Class G(b)]</li> <li>- If building has a display window at ground level – A1 (Shops) [GPDO Class G(c)]</li> </ul>	<p><b>Mixed use of A2 (Financial and Professional Services) and up to 2 flats (C3 Dwellinghouse)</b> Permitted change to</p> <ul style="list-style-type: none"> <li>- A2 (Financial and Professional Services) † [Replaces GPDO Class G(b)]</li> <li>- If building has a display window at ground level – A1 (Shops) [Replaces GPDO Class G(c)]</li> </ul>
<p>† Development is not permitted by unless each part of the building used as a flat was, immediately prior to being so used, used for any purpose within Class A1 (shops) or Class A2 (financial and professional services)</p>	
<p>Changes relating to the introduction of new Use Classes for Food and Drink</p>	
<p><b>A3 (Food and Drink)</b> Permitted change to</p> <ul style="list-style-type: none"> <li>- A1 (Shops) [GPDO Class A]</li> <li>- A2 (Financial and Professional Services) [GPDO Class C]</li> </ul>	<p><b>A3 (Cafés and Sandwich Bars)</b> Permitted change to</p> <ul style="list-style-type: none"> <li>- A1 (Shops) [No change]</li> <li>- A2 (Financial and Professional Services) [No change]</li> </ul>

	- A4 (Drinking Establishments and Restaurants) [New GPDO Class]
<b>Drinking Establishments and Restaurants within A3</b> Permitted changes see A3	<b>A4 (Drinking Establishments and Restaurants)</b> No permitted changes
<b>Hot Food Takeaways within A3</b> Permitted changes see A3	<b>A5 (Hot Food Takeaway)</b> Permitted change to <ul style="list-style-type: none"> <li>- A1 (Shops)</li> <li>- A2 (Financial and Professional Services)</li> <li>- A3 (<b>Cafés and Sandwich Bars</b>)</li> <li>- A4 (Drinking Establishments and Restaurants)</li> </ul> [New GPDO Class]
Changes relating to a use for the sale, or display for sale, of motor vehicles	
<b>Use for the sale, or display for sale, of motor vehicles (Unique use)</b> Permitted change to <ul style="list-style-type: none"> <li>- A1 (Shops)</li> </ul> [GPDO Class A]	<b>Use for the sale, or display for sale, of motor vehicles (Unique use)</b> No permitted changes [Alteration of GPDO Class A]
Changes relating to the removal of Betting Office from the A2 (Financial and Professional Services) Use Class	
<b>Betting Office (A2 use)</b> Permitted change to (Same as A2 above) <ul style="list-style-type: none"> <li>- A1 (Shops) <i>with a display window at ground floor level</i></li> <li>- Mixed use of A1 (Shops) <i>with a display window at ground floor level</i> and a single flat (C3 Dwellinghouse)</li> <li>- Mixed use of A2 (Financial and Professional Services) and a single flat (C3 Dwellinghouse)</li> </ul>	<b>Betting Office (Unique Use)</b> Permitted change to <ul style="list-style-type: none"> <li>- A1 (Shops) <i>with a display window at ground floor level</i></li> <li>- A2 (Financial and Professional Services)</li> <li>- Betting Office (Unique Use) and up to 2 flats (C3 Dwellinghouse)</li> </ul> [New GPDO Class]
<b>Mixed use of Betting Office (A2 use) and a single flat (C3 Dwellinghouse)</b> Permitted change to (Same as Mixed Use A2 above) <ul style="list-style-type: none"> <li>- A2 (Financial and Professional Services)</li> <li>- If building has a display window at ground level – A1 (Shops)</li> </ul>	<b>Mixed use of A2 (Financial and Professional Services) and up to 2 flats (C3 Dwellinghouse)</b> Permitted change to <ul style="list-style-type: none"> <li>- A2 (Financial and Professional Services) †</li> <li>- If building has a display window at ground level – A1 (Shops)</li> </ul> [New GPDO Class]
<b>Use Class B</b>	

No changes proposed, other than the consequential renumbering of the B8 (Storage or Distribution) to B3. See paragraph 2.50.  
[GPDO Class B]

**Use Class C**

No changes proposed  
[GPDO Class H]

## **Part 16 Development by or on Behalf of Sewerage Undertakers**

3.73 Part 16 prescribes the permitted development rights for sewage related development.

### **Proposal**

3.74 We are seeking evidence of whether extended permitted development rights for sewage undertakers are required in Wales. This could include the installation of pumping stations, valve houses, control panel housing or switch-gear housing'

**Q32 Does Part 16 provide sufficient permitted development rights for development by or on Behalf of Sewerage Undertakers?**

**Q33 If not, what types of development should be included within Part 16? Please specify any associated limitations and conditions.**

## **Part 24 Development by Telecommunications Code System Operators**

3.75 Digital connectivity is an essential component of modern society and the Welsh Government recognises its importance for driving economic prosperity and enabling social inclusion in the strategy Delivering a Digital Wales (2011) and Taking Wales Forward a Programme for Government (2016). More recently Prosperity for All: the national strategy (September 2017) describes digital infrastructure as critical to the provision of services needed to learn, access employment, build prosperity and stay healthy. The delivery of a fast reliable mobile telecommunications and broadband network to all parts of Wales is essential to achieve Wales's digital connectivity goals, including areas not currently served by the market. In October 2017 the Welsh Government published the Mobile Action Plan for Wales. The Plan identifies a number of actions required to achieve national objectives for digital connectivity, including the review of permitted development rights, and revision of telecoms policy in Planning Policy Wales.

3.76 The Planning System has an important role to play in supporting and enhancing digital connectivity, through national and local policy and through permitted development rights.



3.77 Permitted development rights for mobile telecommunications in Wales are set out in Part 24 of the GPDO, as amended in 2002 and 2014. The Welsh Government's review of permitted development rights provides an opportunity to consider if the current regulations applying to mobile telecommunications are fit for purpose and able to deliver the objectives set out in national strategy. The key issues relating to telecommunications include the height of freestanding masts or masts located on buildings and structures inside and outside article 1(5) land, the width of masts and the location and number of small antenna permitted.

3.78 The Welsh Government commissioned Arcadis Consulting Ltd in April 2017 to undertake an assessment of Part 24 of the General Permitted Development Order to inform the permitted development review process. The final report was submitted by Arcadis in December 2017. The recommendations below are informed by Arcadis's findings.

### **Mast Height – Ground Based (GPDO Part 24 Sections A1.(a), A.1(b) (i) (aa)(bb) & A.1b (ii) (aa)(bb))**

3.79 Planning application evidence from the Arcadis research indicates landscape and visual impacts are the principal planning concerns when dealing with proposals for masts and related apparatus. Evidence suggests planning applicants are willing to amend applications by employing appropriate mitigation. The prior approval process requires consideration of siting and appearance and will continue to do so when dealing with increases in the height of ground based masts which fall under permitted development. Moreover, case study research regarding national parks shows that the economic and community benefits of mobile telecommunications coverage are given weight in decision making, and masts appear only occasionally to be refused on visual impact alone.

3.80 The research highlights the importance of mast height in enhancing 'line of sight' communication over longer distances. In rural areas 'line of sight' is often required between antenna to connect a site to a network (where a fibre connection is not possible), but in undulating or difficult terrain, or where woodland is present, this can be difficult to achieve, particularly over longer distances. Similarly, in built up areas, higher masts can enable signals to clear obstacles, and provide a better service to mobile users in range of a mast. Increases in mast height could also potentially reduce the number of masts required in some areas.

3.81 While changing mast height under the specific conditions used by the research suggested a limited overall effect on geographical coverage (see below), it is nonetheless recognised, increasing the height permitted may reduce mobile operator costs and enhance the viability of proposals, particularly in rural locations. The research identifies a significant number of proposals submitted just under the existing 15 metre permitted development right, indicating developers seek to maximise benefits afforded by permitted development and the prior approval process. Increasing the permitted

development rights for mast height is also likely to incentivise installation and help address poor coverage in some areas.

- 3.82 The research included an analysis whereby a mast height of 15 metres was first applied to all existing masts for which locational data was available. By applying changes in height to these masts of 20, 25, and 30 metres, an overall improvement in mobile coverage across Wales as a whole of approximately 1.4%, 2.6%, and 3.8% respectively was achieved. Some LPAs, particularly rural authorities, experienced larger increases. It should be noted this analysis was based on specific assumptions which were a limiting factor on the results. The study, which used a 5km radius (cell) around each existing mast (the typical distance a mobile phone and mast can communicate with each other effectively) in association with terrain data to take account of topographical barriers, provides a basis to determine areas with and without coverage ('not spots'). The results confirmed to a certain extent what is already known, that most (although not all) poor or no coverage areas are found in the countryside, where the terrain is often difficult, and the population less dense. The results do not take account of mobile signals which, under the right circumstances, are able to communicate with mobile phones at distances greater than 5km, or where 'clutter' such as buildings, other structures, trees and vegetation, may block or hinder signal effectiveness to less than 5km. It also does not take account of the coverage achieved by masts already greater than 30m in height.
- 3.83 Population density and topography influence the commercial viability of sites for mobile operators, and result in gaps in mast provision irrespective of mast height allowed in permitted development rights. Higher densities of masts are generally associated with more urban or populated areas, while lower densities are typical of rural or more isolated locations often with limited mobile service provision.
- 3.84 Based on the evidence collected, an increase to 20m and 25m, as described in paragraphs 3.85 and 3.86 below, is proposed. It is considered the benefits of increased mast height will lead to improvement in coverage and line of sight communications, site viability, potential reduction in mast numbers and improved services for mobile customers.

## **Proposal**

- 3.85 In relation to the installation of a (new) mast, it is proposed permitted development rights for mast height above ground level (excluding any antenna):
- be increased from 15 metres to 20 metres on Article 1(5) land<sup>7</sup> or any land which is within a site of special scientific interest;

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<sup>7</sup> Article 1(5) land, as specified in the GPDO 1995, includes National Parks; areas of outstanding natural beauty; areas designated as a conservation area under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990(1)(designation of conservation areas); an area specified by the Secretary of State and the Minister of Agriculture, Fisheries and Food for the purposes of section 41(3) of the Wildlife and Countryside Act 1981(2) (enhancement and protection of the natural beauty and amenity of the countryside);

- be increased from 15 metres to 25 metres in unprotected areas.
- 3.86 In relation to the alteration or replacement of a mast, it is proposed that permitted development rights for mast height above ground level (excluding any antenna):
- be increased from 15 metres to 20 metres on Article 1(5) land or any land which is within a site of special scientific interest;
  - be increased from 20 metres to 25 metres in unprotected areas.
- 3.87 Prior Approval will be required with respect to siting and appearance in all instances.

**Q34 Do you agree with the proposed increases in height for the installation, alteration or replacement of a mast on protected and unprotected land?**

**Mast Width (GPDO Part 24 Sections A.1(b) (i) (aa)(bb))**

- 3.88 Current permitted development rights for the alteration or replacement of a mast outside protected areas state development will not be permitted where the mast, excluding any antenna, would ‘at any given height exceed the width of the existing mast at the same height by more than one third’, or where (in the case of the alteration or replacement of antenna support structures), the ‘combined width of the mast and any antenna support structures would exceed the combined width of the existing mast and any antenna support structures by more than one third’.
- 3.89 The research concluded current regulations about mast width potentially restrict development. The benefits of increasing mast width include the ability to accommodate equipment upgrades to utilise different spectrum bands, capacity increases, and better capability for site sharing between operators.

**Proposal**

- 3.90 In the case of mast alteration or replacement, it is proposed mast width, excluding any antenna but including any antenna support structures, should not exceed one metre or, if greater, more than one third of the width of the existing mast and any antenna support structures on it at any given height. This provision would apply on protected and unprotected land.
- 3.91 This approach would provide improved flexibility for mobile operators and service provision.

**Q35 Do you agree with the change to mast width described in relation to the alteration or replacement of a mast?**

**Small Cell Systems, Small Antenna and other Antenna Systems**

- 3.92 The research highlighted the increasing demand for digital mobile services and the potential impacts of future technological change such as 5G. Although the form new technologies will take, and the infrastructure required, is not yet fully known, it is widely recognised there will continue to be a rise in demand for mobile data transfer and other wireless services. The need for small cell antenna to meet capacity requirements and help improve coverage in areas of demand will increase.
- 3.93 Existing permitted development rights are unlikely to be flexible enough to be able to accommodate future demand for small antenna. The proposed amendments to permitted development rights should ensure they are sufficiently future proofed, while not losing sight of the need to protect sensitive areas.

### **Proposal**

- 3.94 The definitions of 'small antenna' and 'small cell system' are proposed as follows:

'Small antenna' means an antenna which may be referred to as a femtocell, picocell, metrocell or microcell antenna, together with any ancillary apparatus, which:

(i) operates on a point to multi point or area basis in connection with an electronic communications service (as defined in section 32 of the Communications Act 2003);

(ii) does not, in any two dimensional measurement, have a surface area exceeding 5000 square centimetres; and

(iii) does not have a volume exceeding 50,000 cubic centimetres;

And any calculation for the purposes of paragraph (ii) or (iii) includes any power supply unit or casing, but excludes any mounting, fixing, bracket or other supply structure

'Small cell system' means a small antenna and any apparatus which is ancillary to that antenna.

- 3.95 Changes regarding antennas, small antennas and small cell systems **outside protected areas** (permitted development does not apply to a listed building or a scheduled monument) are proposed as follows:

- No restriction on the number of small cell systems and small antenna on buildings and structures (other than dwelling houses and within dwelling house curtilages).
- One additional antenna system (other than a small cell system or small antenna) allowed on a building and the antenna (other than a dish antenna) would be located below a height of 15m above ground level. This proposal will allow an increase in antenna on a building from three to four.
- In the case of antennas (other than a dish antenna) located either below 15 metres or above 15 metres on a building, would result in the

presence on that building of more than four electronic communications code operators. This is an increase of one code operator.

- Increase the number of small antennas allowable on a dwelling house or within its curtilage from one to four.

3.96 Proposed changes regarding small antennas and small cell systems within **protected areas** (Article 1(5) land and Sites of Special Scientific Interest (SSSI)) are as follows:

- No restriction on the number of small cell systems on buildings and structures (other than dwelling houses and dwelling house curtilages, and in relation to conservation areas, listed buildings and ancient monuments).

#### Conservation Areas

- No more than two small antennas allowable on a building or other structure, or a dwelling house (or within a dwelling house curtilage) or, in relation to alteration and replacement of such antenna, no more than were present before alteration and replacement took place.

#### Dwelling Houses

- Increase the number of small antennas allowable on a dwelling house or within its curtilage (outside a conservation area) from one to four.

Existing restrictions on the location of a small antenna or small antenna system on a building, structure or dwelling house would continue to apply.

**Q36 Do you agree with the definition of ‘small antenna’ and ‘small cell system’?**

**Q37 Do you agree with the proposed changes to small antennas and small cell systems allowed on buildings and structures (other than dwellinghouses and within their curtilages) in unprotected areas, and protected areas?**

**Q38 Do you agree with the changes to permitted development rights for small antenna and small cell systems on dwelling houses and within their curtilages in unprotected areas; and dwelling houses in protected areas and conservation areas?**

**Q39 Do you agree these changes are sufficient to accommodate the likely needs of future network requirements?**

**Q40 Do you agree with the changes to other antenna system and to the increase in numbers of electronic Communications code operators present on a building?**

#### **Emergency Access**

- 3.97 It is proposed permitted development rights be amended to include an extension of the time period land may be used in an emergency. This is to extend, from six to eighteen months, the period within which moveable electronic communications apparatus can be stationed on land to replace unserviceable electronic communications apparatus.
- 3.98 The benefits of consistency of timescale for operators across the UK are considered to outweigh the extended duration of temporary planning impacts.

**Q41 Do you agree to an increase in the time from 6 months to 18 months, where land may be used in an emergency to station and operate moveable electronic communications apparatus required to replace unserviceable equipment?**

### **Fixed-line Broadband Services**

- 3.99 The Town and Country Planning (General Permitted Development) (Amendment) (Wales) (No.2) Order 2014 provided for, in relation to article 1(5) land, the construction, installation or replacement of telegraph poles, cabinets or lines for fixed-line broadband services without the requirement for prior approval of the LPA. Article 1(5) land refers to land within a National Park, an Area of Outstanding Natural Beauty and an area designated as a Conservation Area.
- 3.100 The conditions introduced related to the giving of notice to the relevant LPA, and in some instance Natural Resources Wales. Further conditions apply to the appearance of cabinets and telegraph poles. Any cabinet installed must be green or black (but not matt black) or a colour which has the prior written approval of the local planning authority. A telegraph pole must have the same appearance and be made of the same material as the nearest existing telegraph pole to it which has planning permission, unless an alternative has the prior written approval of the LPA.
- 3.101 Relaxation of the prior approval application requirement, which was time limited to 30 May 2018, was introduced by the 2014 amending Order to support the Programme for Government commitment to deliver fast reliable broadband to those parts of Wales not currently served by the market. This commitment was delivered following the provision of funding from Welsh Government, UK Government, the European Union (through the European Regional Development Fund) and BT, known as the Superfast Cymru project.
- 3.102 On 4 May, the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2018 was laid before the National Assembly for Wales. The purpose of this Order is to extend, until 30 May 2019, the relaxation of the prior approval application requirement. This is a short term response to maintain continuity to enable the expedient roll-out of broadband in Wales.

3.103 While the Superfast Cymru project has come to an end, the next stage of the rollout to extend coverage will commence later in 2018. Telecommunication companies are also continuing to deploy commercially across Wales including in article 1(5) land.

3.104 Support for the roll-out of broadband in Wales continues to be a Welsh Government commitment. Prosperity for All: the National Strategy, states superfast broadband and comprehensive mobile coverage are nationally important programmes. This is reinforced by Prosperity for All: Economic Action Plan which explains the Welsh Government will deliver fast reliable broadband across Wales.

### **Proposal**

3.105 We consider it appropriate to remove the time-limiting clause and therefore permanently remove the prior approval process. This would assist utility providers in providing the infrastructure necessary to support fixed-line broadband services.

**Q42 Do you agree the clause inserted by The Town and Country Planning (General Permitted Development) (Amendment) (Wales) (No. 2) Order 2014 relating to broadband services should be made permanent, removing the requirement to submit a prior approval?**

**Q43 If you answered yes to Q42, should the notification requirement be retained?**

## **Part 26: Development by the Historic Buildings and Monuments Commission for England**

3.106 Cadw are responsible for the management, maintenance and restoration of historic buildings and monuments. However, since Part 26 expressly refers to a specific body, Cadw are unable to benefit from the permitted development rights. Currently, in instances whereby development is deemed to take place, Cadw must seek planning permission from the relevant LPA.

### **Proposal**

3.107 It is proposed to introduce permitted development rights to assist CADW in their role as the responsible body for the management, maintenance and restoration of historic buildings and monuments in Wales. This will include, where such works are required for the purposes of securing the preservation of any building or monument:

- the maintenance, repair or restoration of any building or monument;
- the erection of screens, fences or covers designed or intended to protect or safeguard any building or monument; or
- the carrying out of works to stabilise ground conditions by any cliff, watercourse or the coastline.

**Q44 Do you agree Cadw should be granted permitted development rights to reflect their role in the management, maintenance and restoration of historic buildings and monuments in Wales?**

### **Part 31: Demolition of buildings**

3.108 Demolition falls within the definition of development as it is listed in section 55(1A) of the 1990 Act as a building operation. However, the demolition of any description of building can be excluded from the definition if specified in a direction made by the Welsh Ministers under section 55(2)(g) of the 1990 Act.

3.109 The current extant direction, the Town and Country Planning (Demolition - Description of Buildings) Direction 1995, is contained within Welsh Office Circular (31/95) Planning Controls over Demolition.

3.110 The direction originally excluded from the definition of development:

- a) the demolition of a listed building, a building in a conservation area, or a scheduled monument;
- b) the demolition of any building other than a dwellinghouse or a building next to a dwellinghouse;
- c) the demolition of a building of volume less than 50 cu m (other than a wall etc in a conservation area); and
- d) the demolition of all or part of a gate, fence or wall outside a conservation area.

3.111 The Court of Appeal, in a judgment handed down on 25 March 2011 quashed part of the direction removing the development types listed in a) and b) above. As a result, the above categories of demolition are development. This decision also effectively extended the scope of Class A of Part 31.

### **Proposal**

3.112 We propose to cancel the Town and Country Planning (Demolition - Description of Buildings) Direction 1995 and to create permitted development rights for the categories of demolition listed in paragraph 3.110.

3.113 It is noted the Law Commission in their recent consultation proposed the unification of consents in respect of planning permission, listed building consent and conservation area consent. Should this be taken forward, consequential amendments will be made so that planning permission is always required for the demolition of a building that is listed or in a conservation area.

**Q45 Do you agree that the demolition direction should be cancelled and the categories of demolition currently in the direction prescribed in the permitted development order?**

### **Public houses**



3.114 We have proposed changes to protect public houses by creating a restaurant and drinking establishment use class (paragraph 2.31) and also removing permitted development rights for a material change of use (paragraph 3.60). A third measure which we propose could help safeguard public houses is to remove permitted development rights for demolition. This means a planning application would need to be submitted prior to demolition, allowing the consideration of the continued use of the building for community purposes and also the historic value of the property.

### **Proposal**

3.115 The Welsh Government acknowledges the valuable role public houses can have in communities and therefore it is proposed to remove permitted development rights from the GPDO for the demolition of buildings used, or last used, for uses falling within the proposed new Use Class A4 Drinking Establishments and Restaurants.

3.116 Any application will be assessed against national and local policy requirements.

**Q46 Do you agree that the demolition of a public house should require planning permission in order for the LPA to consider the impacts resulting from the loss of the use?**

## **Part 39: Temporary protection of poultry and other captive birds**

3.117 Part 39 of Schedule 2 to the GPDO granted a temporary permitted development right until 21 March 2009 to allow the erection of temporary shelters for the housing of birds or to modify existing buildings without the need to obtain specific planning permission. It is subject to limitations such as for size and height and is also subject to conditions requiring notification to the LPA, and restricting the use of the structure to solely for the purpose of protecting birds against Avian Influenza.

3.118 The recent cases of Avian Influenza have led to consideration of the relevant planning controls for buildings to house poultry and other captive birds. If, during an Avian Influenza outbreak, bird owners are required by law to house birds, owners without suitable existing structures will either have to comply with the requirement and risk a planning enforcement notice or not comply with the requirement whilst awaiting planning permission and risk action being taken against them under Avian Influenza legislation.

3.119 Although carrying out development without planning permission is not a criminal offence and enforcement action is discretionary (it should only be taken if “expedient”), it is clearly not desirable for owners to be exposed to uncertainty and the risk of enforcement action when this could be avoided by reinstating the permitted development right.

## **Proposal**

3.120 It is proposed, upon avian influenza controls being put in place, permitted development rights prescribed by Part 39 (as existing) will come into force. Permitted development rights would cease upon the notification of the withdrawal of those controls.

**Q47 Do you agree with reintroducing permitted development rights for the protection of poultry and other captive birds?**

## **Renewable Energy Generation (Parts 40 & 43, Installation of domestic and non-domestic microgeneration equipment)**

3.121 The Welsh Government is committed to increasing the amount of energy we produce from renewable sources and has introduced stretching targets for renewable energy and committed, through legislation, to radically reduce our carbon emissions by 80% by 2050. It is important therefore that the planning system both proactively plans for new renewable and low carbon energy developments for the long term, but is also not perceived as a barrier to smaller scale developments which have no or minimal impact on their surroundings. By operating in this way the planning system can maximise its contribution to ensure that Wales' potential to generate renewable and low carbon energy is realised.

### **Non-domestic Solar**

3.122 Permitted development rights for non-domestic solar PV and solar thermal were introduced in the Town and Country Planning (General Permitted Development) (Amendment) (Wales) (No.2) Order 2012.

3.123 Permitted development rights for non-domestic solar photovoltaics (PV) and solar thermal are currently applicable for installations on a building where capacity does not exceed 50 kilowatts (kw) for the generation of electricity and 45kw for the production of heat (these energy outputs define the upper threshold of what constitutes micro generation as set out in the Energy Act 2004). Roof and wall mounted solar developments above 50kw (electricity) and 45kw (thermal), require full planning permission. Stand alone (ground based) solar developments within the curtilage of non-domestic buildings are restricted to a 9 square metre array under permitted development. All ground based stand alone solar arrays outside of the curtilage of a non-domestic property require planning permission.

3.124 Research to examine how changes to permitted development rights could increase the delivery of non-domestic solar power identified three options in relation to non-domestic solar PV falling under Class A (building mounted solar installations) of Part 43 of Schedule 2 to the GPDO. It also provided advice in relation to Class B developments (ground based solar installations

within the curtilage of the building). The goal of the research was to determine if the current permitted development rights are fit for purpose, and support the Welsh Governments renewable energy policy aspirations, The final report 'Permitted Development Rights and Non-Domestic Solar PV and Thermal Panels' was published in May 2016, and included a number of recommendations for change.

- 3.125 The options for Class A seek to increase the energy output permitted. For this reason any option, if implemented, would fall outside the scope of micro-generation where solar PV and solar thermal currently reside (in Part 43).

### **Option 1 Threshold Approach**

- 3.126 The research identifies three higher energy thresholds for non-domestic solar installations than are presently defined under micro-generation, 1MW, 3MW and 5MW.
- 3.127 A threshold can reduce uncertainty for developers by setting a point below which development is permitted. Raising these thresholds can incentivise investment, reduce on grid consumption and costs, and promote energy self sufficiency. Thresholds, if set at the right levels, can also reduce time and resources expended by LPAs in assessing schemes.
- 3.128 Provided there are sufficient limitations to the permitted development rights, the research indicates there should be no material impacts. The report suggests permitted development rights should not apply in relation to certain areas which are protected for landscape, heritage or transport safety purposes as well as existing visual design regulations concerning a solar panel's position on a buildings roof or wall. However, the threshold approach does present some problems because it is hard to know how much capacity is actually being installed, particularly as technology and efficiency improves, thus making enforcement difficult. Also, depending on the threshold chosen, advances in technology may require further amendments to permitted development rights in the future.

### **Option 2 Planning Impacts Approach Controlled by Limitations**

- 3.129 This approach excludes setting an energy output threshold in favour of controlling impacts of permitted development rights through planning limitations alone. The proposed limitations are similar to those set out in the existing permitted development rights (and the same as those identified in Option 1). This includes areas where permitted development rights do not apply, and limitations and conditions on placement of equipment on buildings. However, as with Option 1, the research recommends additions to further strengthen limitations.
- 3.130 As with Option 1 this approach offers consistency both for the developer and LPA. LPAs would not need to confirm energy outputs, whilst developers would have flexibility in responding to advances in technology without requiring planning permission for installation.

### **Option 3 Planning Impacts with Prior Approval/Notification**

3.131 Option 3 is the same as Option 2 except a prior approval procedure would be introduced. Prior approval would mean solar panel installation proposals would need to be submitted to the LPA for more detailed assessment. The disadvantage of this process is it requires a planning submission, which potentially increases costs, uncertainty and the time taken for a scheme to be approved and installed which could undermine the intention of the permitted development rights review.

#### **Proposal**

3.132 Following consideration of the three options presented through the research, Option 2 has been identified as the preferred option, where no energy output threshold is applied to non-domestic properties. It provides the most benefit in terms of flexibility of energy capacity and future potential, compliance with the objectives of a low carbon economy, and reduction in costs, time and resources incurred both by developers and planning authorities.

#### **Q48 Do you agree with the principle of establishing permitted development rights for non-domestic Solar PV and Thermal without applying a specific energy threshold?**

3.133 The approach described in Option 2 requires the application of various limitations and conditions to mitigate any potential impacts. Sections A.1 and A.2 of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) (No.2) Order 2012 provide an extensive list of measures.

3.134 It is proposed the developments for non-domestic solar PV and thermal panels would not be permitted where:

- a) the solar PV or solar thermal equipment would be installed on a wall or pitched roof and would protrude more than 20 centimetres beyond the plane of the wall or the roof slope when measured from the perpendicular with the external surface of the wall or roof slope;
- b) the solar PV or solar thermal equipment would be installed on a flat roof and would protrude more than 1 metre above the plane of the roof;
- c) the solar PV or solar thermal equipment would be installed on a roof and within 1 metre of the external edge of the roof;
- d) the solar PV or solar thermal equipment would be installed on a wall and within 1 metre of a junction of that wall with another wall or with the roof of the building;

- e) in the case of a building on article 1(5)<sup>8</sup> land or on land within a World Heritage Site, the solar PV or solar thermal equipment would be installed on a wall or roof slope which fronts a highway;
- f) within 1km of an operational airport or airfield.

**Q49 Do you agree that ‘development not permitted’ listed, (a) to (f), is sufficient to control the potential impacts of solar PV or solar thermal permitted development?**

3.135 It proposed that developments for non-domestic solar PV and thermal panels would be permitted with the conditions that they should be:

- a) sited, so far as practical, so as to minimise its effect on the external appearance of the building;
- b) sited, as far as practical, so as to minimise its effect on the amenity of the area;
- c) removed, as soon as practicably possible, when they are no longer needed for or capable of generation.

**Q50 Do you agree that the existing conditions are sufficient to control the potential impacts of solar PV or solar thermal permitted development?**

3.136 Stand alone (ground based) solar developments within the curtilage of non-domestic buildings are restricted to a 9sq.m array under permitted development, which typically generates 1kw of energy.

3.137 The research concluded there would need to be a significant increase in the size of ground based solar panel developments within the curtilage of a non-domestic building benefitting from permitted development rights, for there to be a meaningful enhancement of energy capacity. This could give rise to impacts similar to those of standalone ground mounted solar arrays outside the curtilage of a building and which require planning permission. Given the limited number of applications for such developments, changing the size of a stand alone development would not bring significant benefits in terms of output (individually or cumulatively) to set against potential dis-benefits.

3.138 No change is proposed to the size of ground based solar panel developments, or their energy outputs, within the curtilage of a non-domestic building.

**Q51 Do you agree there should be no change to the size of ground based solar panel developments (and therefore their energy output) within the curtilage of a non-domestic building?**

3.139 Whilst no change is proposed to the arrangements regarding the size of solar array permitted, it is considered appropriate to add the new categories of ‘development not permitted’, similar to those introduced under Class A.

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<sup>8</sup> Article 1(5) land, as specified in the GPDO 1995, includes National Parks; areas of outstanding natural beauty; areas designated as a conservation area under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990(1)(designation of conservation areas); an area specified by the Secretary of State and the Minister of Agriculture, Fisheries and Food for the purposes of section 41(3) of the Wildlife and Countryside Act 1981(2) (enhancement and protection of the natural beauty and amenity of the countryside)

- 3.140 We are therefore proposing that the limitations on ground based solar panel developments within the curtilage of a non-domestic building would not be permitted if:
- a) in the case of the installation of stand alone solar, it would result in the presence within the curtilage of more than one stand alone solar;
  - b) any part of the stand alone solar—
    - i. would exceed 4 metres in height;
    - ii. would, if installed on article 1(5) land or on land within a World Heritage Site, be installed so that it is visible from a highway which bounds the curtilage;
    - iii. would be installed within 5 metres of the boundary of the curtilage;
    - iv. within 1km of an operational airport or airfield;
    - v. sites requiring the formation of a new access from the public highway.
  - c) the surface area of the solar panels forming part of the stand alone solar would exceed 9 square metres or any dimension of its array (including any housing) would exceed 3 metres.

**Q52 Do you agree ‘development not permitted’ listed above, (a) to (c), is sufficient to control the potential impacts of ground based solar PV or solar thermal permitted development within the curtilage of a non-domestic building?**

- 3.141 We are proposing not to amend the following additional conditions attached to the development of ground based solar panel developments within the curtilage of a non-domestic building:
- a) that stand alone solar must, so far as practicable, be sited so as to minimise its effect on the amenity of the area; and
  - b) that stand alone solar which is no longer needed for or capable of generation must be removed as soon as reasonably practicable.

**Q53 Do you agree no change is required to the conditions for non-domestic ground based solar PV or thermal developments?**

- 3.142 As set out above, we do not propose to include limitations on the installation of roof mounted or ground based solar PV or solar thermal panels on listed buildings, scheduled monuments or other areas designated for the landscape importance. This is to ensure we facilitate the maximum amount of renewable energy installations.

**Q54 Do you agree with our approach of not including limitations on non-domestic ground based solar PV or thermal developments on listed buildings, scheduled monuments or other landscape areas? If not, what limitations would you like to see which would still maximise opportunities for deployment on these buildings / sites?**

## Small Scale, Low Risk Hydropower

- 3.143 In 2016 the then Minister for Natural Resources established a Hydropower Task and Finish Group to develop and recommend a package of specific measures to support the hydropower industry in Wales.
- 3.144 Recommendation 7 was that the Welsh Government should investigate whether planning application requirements can be simplified for low risk engineering works associated with low risk, small scale hydropower schemes.
- 3.145 Currently the development of hydro schemes, whatever their size, requires full planning permission. The only permitted development rights conferred to hydro schemes are set out in The Town and Country Planning (General Permitted Development) (Amendment) (Wales) (No.2) Order 2012, and relate to developments on agricultural or forestry land. These state that permitted development rights apply to buildings to house micro generation equipment, in particular hydro-turbines.
- 3.146 Research commissioned from Dulas Ltd<sup>9</sup> recommended permitted development rights could be introduced in certain circumstances.
- 3.147 The introduction of these rights will be accompanied by practice guidance covering the various elements of a hydropower scheme. We will be working with NRW to publish this guidance alongside the introduction of permitted development rights.
- Q55 Do you agree with the principle of establishing permitted development rights for small scale, low risk hydropower developments in Wales?**
- Q56 Do you agree that new permitted development rights should be accompanied by practice guidance? If yes, what aspects should the guidance cover?**
- 3.148 The Welsh Government does not consider it appropriate to control permitted development rights for hydropower schemes on their potential electrical output because each scheme will be unique and the environmental and visual impacts are not necessarily related to the electrical output but the design and construction of a scheme.
- 3.149 The Dulas research report considered the areas / contexts in which permitted development rights should not apply. In considering which areas to exclude they were mindful of the need to recognise that in some areas (such as National Parks and AONBs) the potential to maximise use of the permitted development rights would be curtailed as these areas have the most potential for hydropower development. With this in mind the report recommended that that permitted development rights should not apply in the following areas:

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<sup>9</sup> <https://gov.wales/topics/planning/planningresearch/publishedresearch/permitted-development-rights-and-small-scale-low-risk-hydropower>

- any part of the scheme is sited within European or nationally protected area for habitats and species
- any part of the scheme would be installed within the curtilage of a listed building
- any part of the scheme would be installed on a site designated as a scheduled ancient monument
- any part of the scheme would be installed within a registered historic park and garden

**Q57 Do you agree with the concept to allow permitted development rights for small scale, low risk Hydropower schemes in National Parks and AONBs?**

**Q58 Do you agree with those areas where permitted development rights for hydropower schemes would not apply?**

3.150 In addition to the above limitations, the research report recommended the following further situations whereby permitted development rights would not apply:

- NRW licences have not been obtained
- any part of the scheme affects a main river or a Flood Risk Activity Permit from the Local Authority has been refused
- the scheme, through a screening opinion, been determined to require an Environmental Impact Assessment
- the scheme would be likely to harm any land-based ecological habitats or species protected under the Conservation of Habitats and Species Regulations 2011 (as amended) and other primary or secondary nature conservation legislation
- the scheme would include the creation of a new metalled or tarmac access track

**Q59 Do you agree with the proposed non-spatial limitations where permitted development rights for hydropower schemes would not apply?**

3.151 There are several different components of a hydropower scheme which will need managing separately in order to make them acceptable in terms of permitted development rights.

3.152 Taking into account the recommendations of the Dulas report, the Welsh Government consider the following conditions should be attached to permitted hydropower schemes:

- the intake structure is fully prefabricated with no requirement for pouring concrete or grouting works onsite
- any header tank(s) should be prefabricated and buried underground

**Q60 Do you agree with these conditions relating to minimising the visual / environmental impact of the intake structures and the header tank elements?**



- overground pipelines are black only and located in sheltered locations and will be no higher than 300mm from ground level
- pipelines are not open watercourse channels
- pipelines do not exceed a diameter of more than 355 mm
- pipelines do not exceed a length of 1,500 metres

**Q61 Do you agree with these conditions to minimise the visual impact of the pipelines?**

- the external footprint of the powerhouse does not exceed 30m<sup>2</sup> and does not exceed 4.2m in height from the floor level to the apex
- the external finishes of the powerhouse and ancillary structures are stone or wood for walls, slate or turf/sedum for the roof
- the powerhouse is located outside of Flood Risk Zone 3 unless provision is made to ensure protection against floods
- the powerhouse and/or outfall locations are not located within 125 metres of residential properties (with no interest in the scheme)
- the outfall structure should have a screen area no greater than 1m<sup>2</sup> and does not involve pouring concrete works in or adjacent to the watercourse

**Q62 Do you agree with these conditions to minimise visual / amenity / environmental impacts of the powerhouse and outfall?**

- any requirement for tree felling does not include trees in Ancient Semi Natural Woodland or those protected by Tree Preservation Orders and is supported by tree surveys to confirm the absence of protected species prior to commencement of the scheme construction
- watercourse crossing(s) for either pipework or temporary access tracks or cables have been granted a flood risk activity permit
- construction practices are compliant with current NRW regulatory guidance notes
- Hydropower schemes that are no longer needed or are incapable of generation must be removed by following a method statement agreed with the LPA prior to decommissioning.

**Q63 Do you agree with these miscellaneous conditions relating to tree felling, water course crossings, construction practices and decommissioning?**

## Appendix A

### Article 4 with immediate effect - LPA process for making, varying or cancelling a Direction

#### Advertise by

- local advert, and
- site notice, and
- serving notice on owner and occupier

#### No need to notify owner/occupier if :

- Individual service on owner/occupier is impracticable
- Numbers of owners makes this impracticable
- NB this exception does not apply when owner/occupier is a statutory undertaker or the Crown

#### Content of Notice:

- include a description of development & the area to which the direction relates or the site to which it relates, & a statement of the effect of the direction
- specify that the direction is made under article 4
- name a place where a copy of direction, copy of map may be seen during normal working hours
- specify a period of at least 21 days, stating the date on which that period begins within which any representations concerning the direction may be made to the LPA

LPA must notify Welsh Ministers on same day that notice of direction is given

LPA must, as soon as practicable after direction confirmed :

- (a) give notice of confirmation
- (b) send copy of direction to the Welsh Ministers

[no need to send a copy of Directions which relate to whole/part of a conservation area for development currently described in article 4(5) of the existing GPDO]

#### Notice of confirmation by:

- local advert, and
- site notice, and
- serving notice on owner and occupier (no need to notify if impracticable but exception does not apply to statutory undertakers)

#### Content of notice:

- include a description of development & the area to which the direction relates or the site to which it relates, & a statement of the effect of the direction
- specify that the direction is made under article 4(1)
- name a place where a copy of direction, copy of map may be seen during normal working hours

#### Coming into force date:

- on date on which notice is served on occupier or if no occupier, the owner or
- if no need to notify owner/occupier, the date on which notice is first published or displayed

Direction expires at end of 6 month period beginning with coming into force date unless confirmed by LPA before end of 6 month period

#### Confirmation of Direction:

- LPA must take account of any representations received during advertisement stage.
- Confirmation cannot occur until either:
  - (a) at least 28 days following the latest date on which any notice was served or published; or
  - (b) any longer period which may be specified by the Welsh Ministers

## Article 4 without immediate effect – LPA process for making, varying or cancelling a Direction

### Advertise by:

- local advert, and
- site notice, and
- serving notice on owner and occupier

### No need to notify owner/occupier if :

- *Individual service on owner/occupier is impracticable*
- *Numbers of owners makes this impracticable*
- *NB this exception does not apply when owner/occupier is a statutory undertaker or the Crown*

### Content of Notice:

- include a description of development & the area to which the direction relates or the site to which it relates, & a statement of the effect of the direction
- specify that the direction is made under article 4
- name a place where a copy of direction, copy of map may be seen during normal working hours
- specify a period of at least 21 days, stating the date on which that period begins within which any representations concerning the direction may be made to the LPA
- specify the date when the direction will come into force, the date must be at least 28 days but no longer than 2 years after the 21 day period

Send copy of direction, notice & map to the Welsh Ministers on same day that notice of direction is first published or displayed

LPA must, as soon as practicable after direction has been confirmed, (i) give notice of confirmation & date when it will come into force & (ii) send copy of direction to the Welsh Ministers

### Notice by:

- local advert, and
- site notice, and
- serving notice on owner and occupier

### No need to notify owner/occupier if :

- *Individual service on owner/occupier is impracticable*
- *Numbers of owners makes this impracticable*
- *NB this exception does not apply when owner/occupier is a statutory undertaker or crown*

### Confirmation of Direction:

- LPA must take account of any representations received during advertisement stage.
- Confirmation cannot occur until either:
  - at least 28 days following the latest date on which any notice was served or published; or
  - any longer period which may be specified by the Welsh Ministers
- Once confirmed the Direction comes into force on the date specified in the "content of notice"

### Content of Confirmation Notice:

- include a description of development & the area to which the direction relates or the site to which it relates, & a statement of the effect of the direction
- specify that the direction is made under article 4
- name a place where a copy of direction, copy of map may be seen during normal working hours

