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Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation – summary of responses

Permitted development rights for allotment holders

Town and Country Planning (General Permitted Development) Order 1995

November 2020

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

Contents

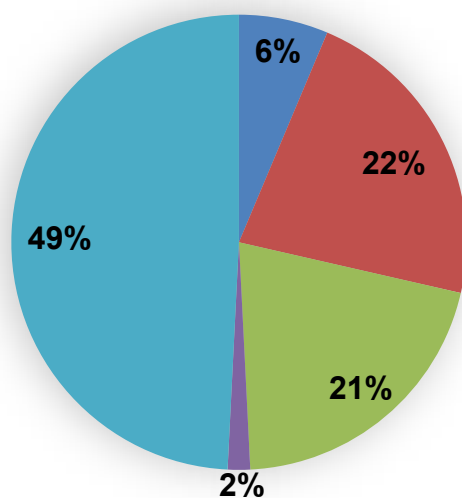
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1. Introduction

- 1.1 The 'Permitted development rights for allotment holders' consultation document was published on 22 November 2019 and was open for responses until 28 February 2020. It sought views on proposals to amend the Town and Country Planning (General Permitted Development) Order 1995 (GPDO) by introducing new permitted development rights (PDRs) for the erection of structures on allotments.
- 1.2 A total of 8 questions were set out in the consultation document, with a standard form, to be returned by post or email, and an online webform provided for ease of response.
- 1.3 This document details a summary of responses to the consultation, the Welsh Government's response and the next steps. It is separated into 3 further sections.
- 1.4 Section 2 provides an overall statistical summary of the consultation and provides details of how the consultation was conducted.
- 1.5 Section 3 provides a summary of all responses received. This includes:
 - A summary of the key findings under each consultation question;
 - A statistical analysis of the views expressed on each consultation question;
 - A summary and analysis of the key themes generated for each question;
 - The Welsh Government's response to that analysis; and
 - An explanation of what the Welsh Government will do following the response to each question.
- 1.6 Section 4 sets out the next steps the Welsh Government will take in bringing forward the proposed amendment to the GPDO.
- 1.7 Section 5 contains a list of those who responded to the consultation.

2. Responses

- 2.1 On publishing the consultation paper, stakeholders, including individuals and organisations were notified by email of its publication. These were drawn from the core consultation list held by the Planning Directorate of the Welsh Government and publically available contact details. This included all local authorities in Wales, public bodies, special interest groups and other groups.
- 2.2 In total, 63 responses were received to the consultation, which have all be been read and considered. The respondents represented a number of different interest groups, just under half of which were individual members of the public, with the full breakdown of respondents shown below:



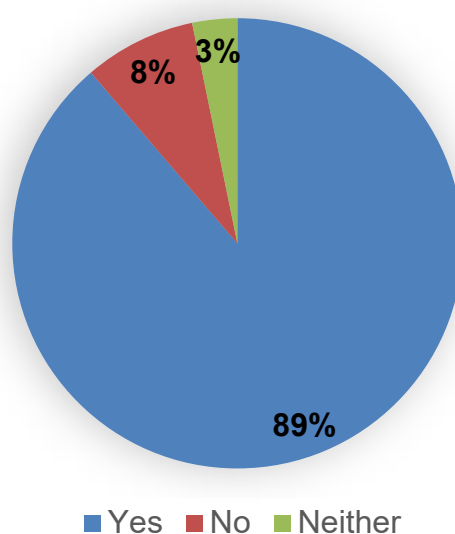
- Government Agency/Other Public Sector - 4 respondents
- Professional Body/Interest Group - 14 respondents
- Local Planning Authority - 13 respondents
- Voluntary Sector - 1 respondent
- Private Individuals - 31 respondents

- 2.3 A list of all the respondents by category is set out in Annex A of this report. Where respondents have asked for their details to be withheld, they will be identified as “Anonymous” under the appropriate category, with the exception of private individuals, all of whom will appear as “Anonymous” in order to comply with the General Data Protection Regulations.
- 2.4 Of the 8 questions set out in the consultation paper, consultation questions 1 to 5 posed policy specific questions on the proposals. The remaining questions related specifically to the potential impacts (either positive or negative) the proposal may have on the Welsh language, as required by the Welsh Language Standards relating to Welsh Government consultations, with also a question inviting any other comments.

3. Summary of responses by question

Q1. Do you agree permitted development rights should be introduced for development on an allotment?

Sector	Statistical Summary				
	Yes	No	Neither	Did not answer	Total
Government Agency/Other Public Sector	3	0	0	1	4
Professional Body/Interest Group	14	0	0	0	14
Local Planning Authority	12	0	1	0	13
Voluntary Sector	1	0	0	0	1
Private Individuals	25	5	1	0	31
Total all respondents	55	5	2	1	63



Statistical review

3.1 Of those who responded to the question, the majority (89% of those who answered) agreed with the principle of introducing PDRs for development on an allotment. Support was strong across all sectors.

Key themes

3.2 The key themes in response to question 1 were as follows:

- Significant support for the proposal, largely without further comment.
- Several comments were received in reference to the need for conditions relating to scale.
- Confusion amongst some private individuals regarding the difference between the requirement to obtain planning permission and any separate consent from the relevant allotment committee/association.

Overview

- 3.3 Those who support the proposal noted the benefits of community growing on health and the environment. Local Planning Authorities (LPAs) also welcomed the clarity the introduction of permitted development rights would bring.
- 3.4 Those that disagreed (5 respondents), expressed a concern that allotments would become covered in buildings and reduced the level of growing taking place.
- 3.5 Some respondents suggested rules on erecting buildings should be left to allotment associations/committees, or those that manage the allotment.
- 3.6 The Brecon Beacons National Park Authority stated that they support the introduction of permitted development rights, but only if changes are made to the Town and Country Planning (Use Classes) Order 1987 (UCO) to identify an allotment as a specific land use in the Order. Their concerns relate to the potential location of allotments and the impact subsequent structures may have on visually sensitive locations, ecology, increased vehicle movements and noise.

Government response

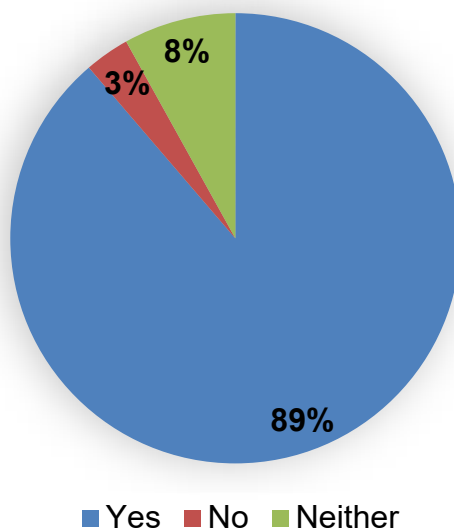
- 3.7 Limitations are proposed (questions 3 & 4) to restrict the size and amount of buildings that could be erected to ensure permitted structures do not have a detrimental visual impact or unduly impact upon growing space.
- 3.8 Furthermore, the introduction of PDRs will not impact upon the rights of individual allotments to set their own rules regarding the type and amount of structures that can be erected, as is currently the case now. Permission from the allotment committee and planning permission, are two separate requirements. Permission from the allotment committee on its own does not override the need for planning permission. Planning permission is a regulatory requirement for all development, as defined in section 55 of the Town and Country Planning Act 1990 (TCPA 1990), that must either be obtained by submitting a planning application to the LPA, or is 'automatically' permitted by a development Order, such as the PDRs set out in the GPDO. However, in some cases, where development does occur, allotment holders do not obtain planning permission for the structures they erect. Any structure currently erected on an allotment that constitutes development but does not have planning permission is unlawful and could be subject to enforcement action by the LPA.
- 3.9 The introduction of permitted development rights for development of a certain size/type would remove the requirement to obtain planning permission from the LPA. It will provide a pragmatic way forward for allotment sites by establishing a national planning permission, removing the need for each allotment holder to seek permission from the LPA for development on their own individual plot, providing the development is of a scale allowed by the proposed PDRs. Permission from the relevant allotment committee or whoever manages the site may still be required if that is part of the terms of the lease of the plot.
- 3.10 In respect of the comment made regarding the UCO, the primary function of an allotment is horticulture and the growing of produce. It has been established in the Courts that such uses fall within the definition of 'agriculture'. Section 55(2)(e) of the TCPA 1990 is clear that the use of any land for the purposes of 'agriculture' does not

constitute development for the purposes of the TCPA 1990. Accordingly, any move to differentiate use as an allotment from 'agriculture' would require a change primary legislation. Notwithstanding this, we are seeking to provide LPAs with greater control over development in protected areas, as set out in paragraph 3.29.

- 3.11 Any LPA which has concerns regarding the use of permitted development rights in non-protected areas may use an Article 4 Direction to withdraw them.

Q2. Do you agree permitted development rights for allotments should include the erection of both a shed and a glasshouse on a single plot?

Sector	Statistical Summary				
	Yes	No	Neither	Did not answer	Total
Government Agency/Other Public Sector	3	0	0	1	4
Professional Body/Interest Group	11	0	3	0	14
Local Planning Authority	13	0	0	0	13
Voluntary Sector	1	0	0	0	1
Private Individuals	27	2	2	0	31
Total all respondents	55	2	5	1	63



Statistical review

3.12 Of those who responded to the question, the majority (89% of those who answered) agreed with the proposal to permitted development rights should include the erection of both a shed and a glasshouse on a single plot. Support was strong across all sectors.

Key themes

3.13 The key themes in response to question 2 were as follows:

- Significant support for the proposal, largely without further comment.
- As per question 1, those who did comment mostly referred to the need for conditions to mitigate impact. Other comments common comments related to the plot size. These issues are explored further in question 4.

Overview

3.14 Overall the majority of respondents supported the proposal and commented on the need for conditions to be imposed to plot and shed / glasshouse sizes to manage visual impact. Respondents considered the proposals would support their enjoyment

and use of the site by noting the usefulness of a shed for the storage of tools and a glasshouse to assist with growing. Some comments also referred to the need to control the use of materials for their construction. This is explored further as part of the analysis of question 4.

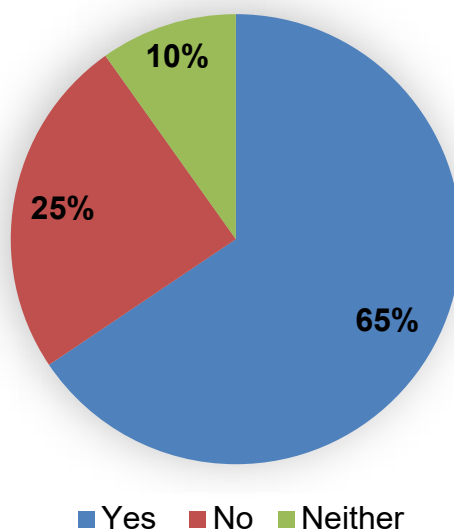
- 3.15 One respondent (professional body/interest group) queried why the proposal was restricted to one shed and one glasshouse and why two sheds were not being permitted.

Government response

- 3.16 The consultation proposed the PDR should include the erection of both a shed and a glasshouse on a single plot. The policy rationale is that a shed is necessary for the storage of tools, whilst a glasshouse can be used for growing, maximising the use of the allotment. Permitting the erection of an additional shed instead of a glasshouse on the proposed plot size would limit the space available for the primary use of the allotment i.e. for growing. A shed should support and facilitate the primary use of the land around it and not diminish its functionality.

Q3. If yes to Q2, do you agree the maximum dimensions of a shed or glasshouse permitted by the GPDO should be no greater than 2.5m (depth) x 2.1m (width) x 2.2m (height) (i.e. a standard domestic 8 x 6 garden shed or glasshouse)?

Sector	Statistical Summary				
	Yes	No	Neither	Did not answer	Total
Government Agency/Other Public Sector	3	0	0	1	4
Professional Body/Interest Group	6	5	3	0	14
Local Planning Authority	13	0	0	0	13
Voluntary Sector	0	1	0	0	1
Private Individuals	18	9	3	1	31
Total all respondents	40	15	6	2	63



Statistical review

- 3.17 Of those who responded to the question, the majority (65% of those who answered) agreed the maximum dimensions of a shed or glasshouse permitted by the GPDO should be no greater than 2.5m (depth) x 2.1m (width) x 2.2m (height).
- 3.18 Support for the proposal was closely balanced by those responding on behalf of a professional body/interest group (42% yes, 35% no, 21% neither).

Key themes

3.19 The key themes in response to question 3 were as follows:

- Whilst there is a general acceptance of the dimensions proposed, those who disagreed generally wanted the dimensions increased as opposed to reduced.

Overview

- 3.20 Those that agreed did so with few comments. One respondent noted that domestic sized sheds would ensure the use of allotments for domestic use as oppose to commercial production.
- 3.21 One LPA queried whether the use of materials should also be controlled to preclude the construction of more permanent brick built structures which some may call a shed but would be more difficult to remove should the use of the land as an allotment cease. This view was shared by Taff Community Allotment Group who noted construction materials should be mainly wood with brick or concrete foundations only.
- 3.22 The RTPi also recommended the use of conditions to control materials and to restrict development on Article 1(5) land to address the cumulative impact of development within or adjoining designated areas. Controls on materials were also suggested by three LPAs.
- 3.23 Conwy County Borough Council also suggested it will be important to control the colour of materials used to avoid inappropriate colour schemes on sites located close to a listed building or within a conservation area.
- 3.24 Those that disagreed, included comments that the proposed dimensions were too restrictive (9 respondents) or, conversely, too excessive (2 respondents). The 4 remaining respondents who disagreed did so without comment.

Government response

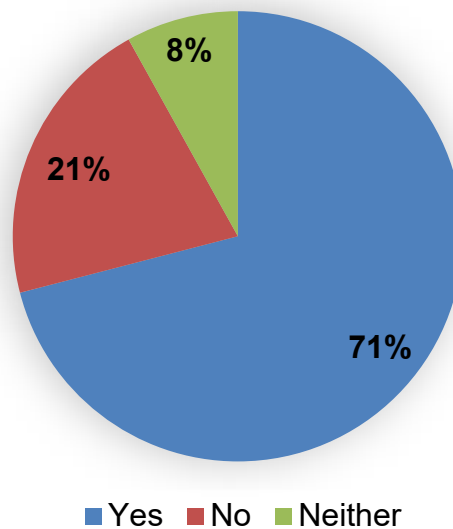
- 3.25 The consultation proposed a uniform size limit for both types of structure of no greater than 2.5m (depth) x 2.1m (width) x 2.2m (height). On reflection, being prescriptive over the dimensions for the width/depth as set out in the consultation paper is considered to be unnecessarily restrictive. We believe the use of 'ground area' as an alternative measurement would provide greater flexibility for different shaped structures and reflects other classes of development within the GPDO. The maximum ground area permitted for new structures would be 6 square metres, derived from rounding up the original proposed length/width dimensions. The height dimension as proposed in the consultation remains necessary to mitigate the visual impact of the proposed structures.
- 3.26 The Welsh Government notes the point made by one LPA regarding the potential visual impact of structures erected using more permanent materials should use of the land cease. However, LPAs already have the power under section 215 of the TCPA to take steps requiring land to be cleaned up when its condition adversely affects the amenity of the area.
- 3.27 Furthermore, on local authority owned/managed sites, tenancy agreements can be used to specify, and therefore control, materials on a site by site basis.
- 3.28 In protected areas, i.e. Article 1(5) land, the Welsh Government acknowledges the comments made by the RTPi and some LPAs regarding the need for greater control. Development will therefore be excluded on article 1(5) land, on land within a World Heritage Site and on land within the curtilage of a listed building. This will ensure LPA's have the opportunity to consider the appropriateness of development in

protected areas, whilst also retaining the ability to add conditions, such as use of materials, to make development acceptable in certain circumstances.

- 3.29 However, within non-protected areas, given the current general character and appearance of allotments which will already consist of structures of various shapes, sizes and materials, any means to restrict the type or colour of materials through permitted development rights would be overly onerous, resulting in over-regulation with minimal benefit to the wider environment.
- 3.30 In respect of those who disagreed, we are content that the scale proposed is reflective of a typical domestic garden shed/glasshouse appropriate for domestic growing, as supported by the majority of respondents to this question. We are content that the scale proposed achieves an appropriate balance between providing community growers with flexibility to erect structures that support the use of the land for growing against the need to protect growing space and the wider visual impact.

Q4. In order to manage visual impact and protect the growing space, do you agree the number of sheds and glasshouses should be restricted to one of each per half plot (125 square metres)?

Sector	Statistical Summary				
	Yes	No	Neither	Did not answer	Total
Government Agency/Other Public Sector	2	0	1	1	4
Professional Body/Interest Group	8	4	2	0	14
Local Planning Authority	11	2	0	0	13
Voluntary Sector	1	0	0	0	1
Private Individuals	22	7	2	0	31
Total all respondents	44	13	5	1	63



Statistical review

3.31 Of those who responded to the question, the majority (71% of those who answered) agreed the number of sheds and glasshouses should be restricted to one of each per half plot, measured as 125 square metres.

Key themes

- Whilst there is significant support for the proposed dimensions, there is a clear expression from respondents that plot sizes can vary. Smaller plots are common, particularly in urban areas.
- Those who disagreed considered one structure per plot would be more appropriate, whilst those who wanted more freedom considered that they should have flexibility to erect what was necessary for each individual plot, such as a larger shed, or multiple sheds, greenhouses, etc.

Overview

- 3.32 Those that agreed mostly did so without comment. Victoria Road Allotment Society agreed with the proposal noting it would be sufficient while still leaving plenty of room for growing produce. Taff Community Allotment Group also agreed, noting structures should act as an aid to cultivation not as a main production method.
- 3.33 Those who disagreed (13 respondents), including Monmouthshire County Council, consider that one of each per full plot (250 square metres) would be more advisable to reduce the cumulative visual impact of the buildings.
- 3.34 However, the consensus from the comments was that it is reasonable to have both a shed and a greenhouse to maximise the use and enjoyment of an allotment, with the limitations of the PDR relating to plot size and shed size to manage the visual impact.
- 3.35 Many of the comments received in response to this question (and questions 2 and 5) relate to plot sizes. There was a clear expression from respondents that plot sizes can vary with smaller plots most common, particularly in urban areas where space can be limited. It is evident from the responses that allotment plot sizes vary from site to site with no standardised scale in Wales.
- 3.36 Evidence from the consultation responses suggests some allotments are divided further into smaller plots than proposed. It was also suggested that on some sites, new users take on a small plots at first and then may take on a further plots at a later date.
- 3.37 A LPA suggested where smaller (quarter) plots are rented then there should be provision for one structure to be permitted – either a shed or a green house. They suggest any permitted development needs to also include provision of smaller (quarter) plots to avoid ambiguity.
- 3.38 Social Farms and Gardens commented that a sliding scale based on the size of site would be more appropriate with one shed or green house permitted on allotments and community gardens measuring 83 square metres (a third size plot), two structures at 125 square metres and a shed and larger greenhouse at 250 square metres.

Government response

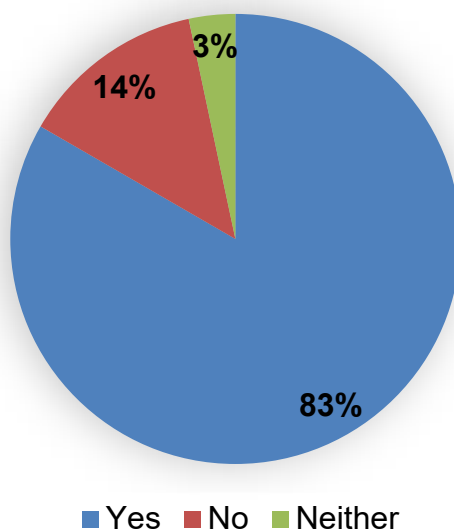
- 3.39 We acknowledge the suggestion by some respondents that the PDRs should apply on larger plots than proposed. Whilst some sites may accommodate more generous plot sizes, evidence from the consultation suggests that this is not the case in many settings including urban areas. Based on evidence received from the majority of the responses, restricting the PDRs to larger plots than proposed would likely exclude a significant proportion of allotments in Wales, to the detriment of the aim of introducing national planning permission.
- 3.40 Based on the evidence presented, we agree a sliding scale may be more appropriate in order to support the use of smaller allotments and ensure those with smaller plots are able to benefit from the new permitted development rights.
- 3.41 Analysis suggests that a 'quarter plot', i.e. half the scale proposed in the consultation (62 square metres) can accommodate a single structure as proposed by respondents whilst still retaining a significant proportion of the plot to be utilised for growing. The

visual impact of adjoining smaller plots with single structures erected using the PDR would be no greater than adjoining larger plots with two structures.

- 3.42 It is intend to bring forward provisions permitting the erection of one shed and one greenhouse (as originally set out in the consultation) on plots measuring 125 square metres or more in area. In addition, the erection of either a shed or a greenhouse will be permitted on smaller plots measuring a minimum of 62 square metres in area. We consider this approach would not result in a massing of structures or have a cumulative, detrimental visual impact.
- 3.43 We are content that the planning impacts of taking forward this approach is no greater than as proposed in the consultation for larger plots.
- 3.44 Plots measuring less than 62 square metres will not benefit from the permitted development rights to maintain sufficient space to support growing on their allocated space and to prevent clustering or overdevelopment.

Q5. Do you agree a half plot should be defined as measuring no greater than 125 square metres?

Sector	Statistical Summary				
	Yes	No	Neither	Did not Answer	Total
Government Agency/Other Public Sector	2	0	1	1	4
Professional Body/Interest Group	10	2	1	1	14
Local Planning Authority	12	1	0	0	13
Voluntary Sector	0	1	0	0	1
Private Individuals	26	4	0	1	31
Total all respondents	50	8	2	3	63



Statistical review

3.45 Of those who responded to the question, the majority (83% of those who answered) agreed half plot should be defined as measuring no greater than 125 square metres. There was support across all sectors.

Key themes

- Many of the points raised in response to question 4, related equally to question 5 in respect of plot size and number of structures.
- Clear acceptance in principle that half a plot is traditionally approximately 125 square metres but with some comments made that plot sizes can vary significantly between sites across Wales.

Overview

3.46 Many of the responses to this question referred to their comments made to question 4. Those who disagreed (8 respondents) commented that individual plots on their sites were smaller than proposed, whilst others suggested, conversely, that individual plots on their sites were larger than proposed. There is however a significant consensus

that the figure of 125 square metres reflects the more established tradition of measuring allotments in the United Kingdom.

Government response

3.47 As set out in paragraph 3.43, the Welsh Government intend to proceed with the new PDR applying on plots measuring a minimum of 62 square metres, permitted either a single shed or greenhouse, whilst plots measuring 125 square metres or more will be permitted to erect both a shed and a greenhouse as proposed in the consultation.

Other Questions Asked

- Q. We would like to know your views on the effects that the proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How positive effects could be increased, or negative effects be mitigated?**
- Q. Please also explain how you believe the proposals could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.**

Overview

- 3.48 In accordance with the Welsh Language Standards, all Welsh Government consultations must include the above questions in relation to the Welsh language.
- 3.49 No negative comments were raised by respondents in respect of any potential impact upon the Welsh language as a result of the proposed introduction of permitted development rights for allotment holders.
- 3.50 The majority of respondents did not answer the questions or questioned their relevance to the subject matter of the consultation.

Government response

- 3.51 The Welsh Government is satisfied there will be no impact upon the Welsh language by taking forward permitted development rights as proposed.
- Q. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them**

- 3.52 At the end of the consultation, we invited comments from respondents regarding any related issues which were not addressed by the consultation. A summary of the consistent issues raised is provided below.

Polytunnels

- 3.53 Several respondents who were providing comments in a personal capacity as members of the public noted that polytunnels were not referenced in the consultation and queried whether they would be permitted under the proposals. Those advocating for PDRs noted polytunnels are significantly cheaper than a shed or greenhouse and are often more appropriate for the growing conditions in Wales.

- 3.54 In the consultation, no specific proposal was made in respect of polytunnels. However, the consultation did set out that polytunnels may not be deemed to be development. Whether or not transparent plastic polytunnels are operational development, and therefore require planning permission, is often a matter of fact and degree to be assessed by LPAs on a case by case basis. Much depends on principles relating to the extent, size, scale, permanence, movability and the degree of attachment to the land.
- 3.55 Notwithstanding this, clarification will be provided that where a polytunnel would constitute development and meets the limitations prescribed in the new PDR it would be considered permitted development and accordingly receive automatic planning permission as per sheds and greenhouses. Such structures have the same effect in growing terms with similar planning impacts and are a characteristic of community growing spaces.

Definition of an allotment

- 3.56 Some respondents noted that the consultation did not include a definition of an allotment.
- 3.57 Social Farms and Gardens commented that the traditional definition of ‘allotments’ is no longer valid in modern day Wales, where all different sorts of community food growing exists and that allotments and community led gardening projects look very similar.
- 3.58 It is evident that, in land use planning terms, traditional allotment and more modern community led gardening projects are identical. The primary use of land in both cases is for horticulture, i.e. the cultivation of produce such as plants, vegetables herbs etc., grown by individuals or as part of a wider community group not for a commercial purpose.
- 3.59 It has always been the intention of the Welsh Government that the permitted development rights have the broadest scope possible to encourage and support all community food growing in its various forms. This will be reflected in the legislation.

Sites over 250 square metres

- 3.60 Some respondents referenced the need for greater permitted development rights on plots greater than 250 square metres. At this time, the Welsh Government are focused on introducing permitted development rights on smaller-scale, individual plots used for personal growing. We are content that the scale proposed achieves an appropriate balance between providing community growers with flexibility to erect structures that support the use of the land for small scale, local growing against any wider visual and environmental impacts associated with development.

Flood Risk Activities

- 3.61 Natural Resources Wales (NRW) in their response to the consultation have requested that development on allotments should not extend to structures within 8m of a non-tidal main river, flood defence structure or culvert on that river, or within 16m of a tidal main river, flood defence structure or culvert. This is to ensure that any new structures

do not adversely impact on their ability to access and maintain a watercourse/flood defence.

- 3.62 Climate change places a heightened need to be cautious when considering introducing new PDRs, given the broad nature of the planning permission they grant. The flooding witnessed in February 2020 highlighted the need for watercourses and flood defences to be accessible at all times.
- 3.63 The request made by NRW will therefore be incorporated into the provision to ensure development granted by these PDRs do not adversely impact upon the maintenance of a watercourse/flood defence.
- 3.64 Where development may impact upon flood defence, a planning application remains the most appropriate means to fully assess the impact, in consultation with NRW. Such development may also require Flood Risk Activity Permit from NRW.

4. Next Steps

- 4.1 The Town and Country Planning (General Permitted Development) (Amendment) (No.3) (Wales) Order 2020 will shortly be laid before Senedd Cymru.
- 4.2 The laying of the legislation will be publicised through issuing a Dear Chief Planning Officer (CPO) letter, which will also be published on the Welsh Government website.
- 4.3 Guidance will also be included as part of the Welsh Government's "Guidance for growers and growing groups" document, which will be published by the end of the year.

5. List of respondents

Government Agency/Other Public Sector	
Natural Resources Wales	Aberystwyth Town Council
Canal & River Trust in Wales	1 respondent requested to remain anonymous
Total – 4	Percentage – 6%

Professional Body/Interest Group	
Beaumaris Allotment Society	Royal Town Planning Institute
Gerrett's Hill Allotment Association	One Voice Wales
Social Farms and Gardens	Taff Community Allotment Group
Victoria Road Allotment Society	Llandaff North Allotments Association
Sully Terrace Allotments Association	<i>a further 5 requested to remain anonymous</i>
Total – 14	Percentage – 22%

Local Planning Authority	
Conwy County Borough Council	Awdurdod Parc Cenedlaethol Eryri
Monmouthshire County Council	
Pembrokeshire Coast National Park Authority	Caerphilly County Borough Council
Brecon Beacons National Park Authority	<i>a further 7 requested to remain anonymous</i>
Total – 13	Percentage – 20%

Voluntary Sector	
Youth Factor V	
Total – 1	Percentage – 2%

Private Individuals	
31 individuals responded in a personal capacity.	
Total – 31	Percentage – 49%