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Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation Document

Consultation on planning legislation and policy for second homes and short-term holiday lets

Date of issue: 23 November 2021

Action required: Responses by 22 February 2022

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

Overview

This consultation seeks your views on the Welsh Government's proposals to amend the development management system and planning policy in Wales to help local planning authorities manage Second Homes and Short-term Holiday Lets in three ways:

Firstly, we propose to amend the Town and Country Planning (Use Classes) Order 1987 to create new use classes for Primary Homes, Secondary Homes and Short-term Holiday Lets.

Secondly, we propose to make related amendments to the Town and Country Planning (General Permitted Development) Order 1995 to allow permitted changes between the new use classes for Primary Homes, Secondary Homes and Short-term Holiday Lets.

Thirdly, we propose amendments to Planning Policy Wales (PPW) to make it explicit that, where relevant, the prevalence of second homes and short-term holiday lets in a local area must be taken into account when considering the housing requirements and policy approaches in Local Development Plans (LDPs).

How to respond

Please respond to this consultation by answering the questions set out within this document and in the response form. Responses can be submitted in a number of ways:

Online: <https://gov.wales/planning-legislation-and-policy-second-homes-and-short-term-holiday-lets>

Email: planconsultations-j@gov.wales

Post:

Second Homes & Short-term Holiday Lets
Amendments
Planning Policy Branch
Planning Directorate
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

When responding please state whether you are responding as an individual or are representing the views of an organisation.

Responses to this consultation should arrive by **22 February 2022** at the latest.

Further information and related documents

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

[Planning Policy Wales \(PPW\)](#)

[Second homes: developing new policies in Wales report by Dr Simon Brooks](#)

[Second and Holiday Homes and the Land Use Planning System Research Report - prepared for the Welsh Assembly Government](#)

[Research to Develop an Evidence Base on Second Homes – Welsh Government](#)

Contact details

For further information:

Email: planconsultations-j@gov.wales

Telephone: 03000 256802 / 03000 253290

or write to:

Second Homes & Short-term Holiday Lets
Consultation
Planning Policy Branch
Planning Directorate
Welsh Government
Cathays Park
Cardiff
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General Data Protection Regulation (GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may

also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

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

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the UK GDPR, please see contact details below:

Data Protection Officer
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ

e-mail: Data.ProtectionOfficer@gov.wales

The contact details for the Information Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745 or 0303 123 1113

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

1.0 What is this consultation about?

- 1.1 Ensuring local people can live in the communities in which they grew up and maintaining the health and vitality of Welsh as a thriving community language are priorities for the Welsh Government. To facilitate this we must ensure everyone has access to good-quality and affordable housing. Our current Programme for Government reflects this with the commitment to deliver 20,000 new low-carbon homes for rent in the social sector and the development of a Welsh Language Communities Housing Plan.
- 1.2 The availability of affordable housing in Wales, particularly for young people, and the levels of empty properties or second homes and short-term holiday lets in some communities has been the focus of much debate. The issue has also been the subject of several research studies¹.
- 1.3 It is evident that the issues associated with second homes and short-term holiday lets are complex and as such there is no single solution. The Welsh Government recognise that any actions need to complement those taken in relation to tourism, taxation and the sustainability of communities.
- 1.4 On 6 July the Minister for Climate Change, Julie James MS, set out an “**ambitious three-pronged approach**” to address issues of affordability and the impact of second homes and short-term holiday lets on communities and the Welsh language. The three-pronged approach will focus on:
- support - addressing affordability and availability of housing;
 - regulatory framework and system - covering planning law and the introduction of a statutory registration scheme for holiday accommodation; and
 - a fairer contribution - using national and local taxation² systems to ensure second home owners make a fair and effective contribution to the communities in which they buy.
- 1.5 As part of this approach, we are looking at possible changes to the planning system to support local authorities in managing the impact of second homes and short-term holiday lets in their areas. This consultation focuses on the planning aspects, with proposed changes to the development management system and national planning policy. Local authorities will play a central role in any changes made to the planning system using local evidence.

2.0 What are the main issues?

- 2.1 The demand for second homes and short-term holiday lets has been evident within many rural, coastal and Welsh-speaking communities for many years. However, the COVID pandemic, which has seen a movement of people away from large towns and cities into often more rural environments, has highlighted the issue of second homes

¹ [Second and Holiday Homes and the Land Use Planning System Research Report - prepared for the Welsh Assembly Government](#)

[Second homes: developing new policies in Wales report by Dr Simon Brooks](#)

[Research to Develop an Evidence Base on Second Homes – Welsh Government](#)

² [Consultation on local taxes for second homes and self-catering accommodation – Welsh Government](#)

and holiday lets within these communities. Tensions about the relative affordability for local people, particularly younger people, and the sustainability of the Welsh language within many of these communities have been evident.

- 2.2 High concentrations of second homes and short-term holiday lets can lead to substantial changes for the settled communities as the nature of a neighbourhood changes. Issues and problems can manifest themselves in many different ways and create less stable local communities.
- 2.3 Earlier this year the Welsh Government commissioned research³ specifically to explore the prevalence and impacts of second home ownership on communities across Wales. This research highlights the localised nature of concentrations of second homes, with Council Tax data (which does not include short-term holiday lets) indicating that they are predominantly concentrated around coastal, rural authorities and within Cardiff and Swansea. Based on community level data the research also highlights that even within local authorities, the distribution of second homes is more concentrated in some localities than others.
- 2.4 In terms of the impact of second homes, in particular on the affordability of housing, the research recognises that they are not a stand-alone problem and that it is difficult to separate out their impact from other factors such as average wages, ability to borrow and the types of housing available. The research concludes that the impact of second homes needs to be assessed, and any interventions evaluated, on a local basis.

3.0 What is the current position?

- 3.1 Planning permission is required to carry out development. The definition of 'development', set out in section 55 of the Town and Country Planning Act 1990 (TCPA), includes making a material change of use.
- 3.2 The Town and Country Planning (Use Classes) Order 1987 (UCO), as amended, puts uses of land and buildings into various categories known as 'use classes'. Changes of use within a specific use class do not constitute development and so do not require planning permission⁴.
- 3.3 The Town and Country Planning (General Permitted Development) Order 1995 (the GPDO) permits certain specified changes of use between the specified use classes. Permitted development is development that can be carried out without the need to apply for planning permission, as it is already granted by the GPDO. Article 4 of the GPDO enables a direction to be given where it is expedient to do so to remove permitted development. Therefore, the planning permission which the GPDO grants for a class of development may be withdrawn in a particular area by an Article 4 direction made by the local planning authority or by the Welsh Ministers.
- 3.4 In Wales Class C of the UCO covers residential use, with class C3 covering 'Dwellinghouses' and class C4 covering small Houses in Multiple Occupation (HMOs). Class C3 Dwellinghouses is formed of three parts:

³ [Research to Develop an Evidence Base on Second Homes – Welsh Government](#)

⁴ Section 52(2)(f) of the Town and Country Planning Act 1990 and Article 2 of the Use Classes Order (UCO)

- C3(a) covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child.
- C3(b) up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems.
- C3(c) allows for groups of people (up to six) living together as a single household to allow for those groupings that do not fall within the C4 HMO definition to be provided for, e.g. a small religious community may fall into this category as could a homeowner who is living with a lodger.

3.5 Changing between the different uses of a dwellinghouse, for example by a family or by a single person, provided they fall within the above description, does not require planning permission. When two uses fall within the same use class, permission is not required to change between them. For a change of use to one outside of that use class, permission will only be required if there is a 'material change of use'.

3.6 Use as a short-term holiday let is not specifically referred to within the UCO. Under current planning legislation, planning permission may be required for a change of use of a dwelling house to use as a short-term holiday let. However, this will depend on whether the local planning authority considers there has been a material change of use in planning terms. There is no published definition of what constitutes a material change of use from primary or secondary home to a short-term holiday let. Whether a material change of use has occurred, and planning permission is therefore required, is a matter of fact and degree for the relevant planning authority to consider on a case-by-case basis. Considerations that may be material include increased occupancy of the property, frequency of changes of occupants, impact on local amenity and on direct neighbours and local housing need.

3.7 Use as a second home is generally considered to be captured as part of use class C3 which includes use as a dwellinghouse whether or not as a sole or main residence. The change of use of a property from a main residence to a secondary residence is unlikely to be development and therefore currently is very unlikely to require planning permission.

3.8 National planning policy, set out in Planning Policy Wales (PPW), already allows local planning authorities to develop local policies in their Local Development Plans (LDPs) to meet the challenges and particular circumstances evident in their areas, where they have the supporting evidence. This can include policies to meet specific local housing needs for market housing, provided there is clear and robust evidence to support the approach taken. However, this aspect of national planning policy has not been widely used by local planning authorities.

4.0 What changes are we proposing?

4.1 This consultation seeks your views on the Welsh Government's proposals to amend the development management system and planning policy in Wales in three ways:

- We propose to amend the Town and Country Planning (Use Classes) Order 1987 to create new use classes for ‘Primary Homes’, ‘Secondary Homes’ and ‘Short-term Holiday Lets’;
- We propose to make related amendments to the Town and Country Planning (General Permitted Development) Order 1995 to allow permitted changes between the new use classes for Primary Homes, Secondary Homes and Short-term Holiday Lets. These permitted development rights can be dis-applied within a specific area by an Article 4 Direction made by a local planning authority; and
- We propose amendments to Planning Policy Wales (PPW) to make it explicit that, where relevant, the prevalence of second homes and short-term holiday lets in a local area must be taken into account when considering the housing requirements and policy approaches in Local Development Plans (LDP). In addition, it makes clear where the local planning authority imposes an Article 4 Direction, a condition could be placed on all new dwellings restricting their use to primary residential where such conditions would meet the relevant tests.

Proposed amendments to the Town and Country Planning (Use Classes) Order 1987 (UCO)

- 4.2 While changing the UCO will not impact on existing second homes and short-term holiday lets, changes to the UCO might enable the planning system to respond to the issues in the future.
- 4.3 By amending the existing C3 (Dwellinghouses) use class to apply solely to use as a primary home and creating new use classes covering second homes and short-term holiday lets, we will be moving from a situation in which changing to use as a second home does not require planning permission, to a situation where it may require planning permission if it is determined that it constitutes a material change of use. Similarly, creating a new use class for short-term holiday lets may provide greater clarity about whether permission is required for a change of use.
- 4.4 Ultimately, only amendments to primary legislation (i.e. section 55 (meaning of “development” and “new development”) of the TCPA) can provide certainty that a change of use constitutes a material change of use requiring planning permission. An example can be found in Section 55(3)(a) of the TCPA which specifies for the avoidance of doubt that sub-dividing a single dwellinghouse into two or more separate dwellinghouses involves a material change in the use of the building. Further information on primary legislation is provided in paragraph 4.9.
- 4.5 It is proposed to amend Part C of Schedule 1 to the UCO by:
- Amending the existing use class C3 (Dwellinghouses) to apply where a dwellinghouse is in use as a sole or main residence for a prescribed period (i.e. Primary Homes);
 - Introducing use class C5 (Secondary Homes);
 - Introducing use class C6 (Short-term Holiday Lets).
- 4.6 The principal defining characteristic of identifying uses that fall within the new use classes will be the number of days dwellinghouses are occupied, and by whom.

Whether a material change of use occurs will be a matter for each local planning authority to consider on a case by case basis.

- 4.7 The following proposed amendments to Part C are suggested to enable discussion and consideration. Views are welcome on both the concepts and the proposed wording.

Table 1: Proposed classification of Uses	
Use Class	Purpose
PART C	
Class C1. Hotels (no amendments proposed)	Use as a hotel or as a boarding or guest house where, in each case, no significant element of care is provided
Class C2. Residential institutions (no amendments proposed)	Use for the provision of residential accommodation and care to people in need of care (other than a use within Class C3 (dwelling houses)). Use as a hospital or nursing home. Use as a residential school, college or training centre.
Class C2A. Secure residential institutions (no amendments proposed)	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.
Class C3. Dwellinghouse; Primary homes	Use as a dwellinghouse as a sole or main residence, occupied for more than 183 days in a calendar year 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). Interpretation of Class C3: <ul style="list-style-type: none"> • For the purposes of Class C3(a) “single household” shall be construed in accordance with section 258 of the Housing Act 2004. • In the calculation of the 183 days, any time spent by single households in occupationally provided accommodation, such as oil rigs or barracks, contributes to the 183 days.
Class C4. Houses in multiple occupation (no amendments proposed)	Use of a dwellinghouse by not more than six residents as a “house in multiple occupation”. Interpretation of Class C4: For the purposes of Class C4 a “house in multiple occupation” does not include a converted block of flats to which section 257 of the Housing Act

	2004 applies but otherwise has the same meaning as in section 254 of the Housing Act 2004.
Class C5. Dwellinghouse; Secondary homes	<p>Use as a dwellinghouse, otherwise than as a sole or main residence, occupied for 183 days or less by -</p> <p>(a) a single person or by people to be regarded as forming a single household;</p> <p>(b) not more than six residents living together as a single household where care is provided for residents;</p> <p>or</p> <p>(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).</p> <p>Interpretation of Class C5:</p> <ul style="list-style-type: none"> • For the purposes of Class C5(a) “single household” shall be construed in accordance with section 258 of the Housing Act 2004. • In the calculation of the 183 days, any time spent by single households in occupationally provided accommodation, such as oil rigs or barracks, contributes to the 183 days.
Class C6. Short-term lets	<p>Use of a dwellinghouse for commercial short-term letting not longer than 31 days (for each period of occupation).</p> <p>Interpretation of Class C6: “short-term let” does not include:</p> <ul style="list-style-type: none"> • An annex within the curtilage of an existing C3 dwellinghouse occupied by a family member.

4.8 It is recognised that there may be scenarios whereby the distinction of the primary home may become unclear, such as where two homeowners in a relationship split their time between each other’s properties. We welcome your thoughts on other examples and how such situations should be managed by the planning system.

Q1 Do you agree or disagree that amending secondary legislation as proposed would be an effective means of helping to address the impacts of second homes and short-term holiday lets that have been identified in some communities?

Q2 Do you agree that use class C3 should be amended and new use class C5 (Secondary homes) and use class C6 (Short-term Lets) be created? If not, please explain why.

Q3 Do you agree with the descriptions of the new and revised use classes? If not, please explain why.

Q4 Are there any scenarios whereby use as a dwellinghouse under use class C3 could become unclear? Please provide examples.

Primary legislation

- 4.9 Material changes of use require planning permission as set out in section 55 of the TCPA. There are examples of where material changes of use will always require planning permission as defined in section 55 of the TCPA. An example of this is contained in section 55(3) where the sub-division of a dwellinghouse is specifically considered to be a material change of use within the meaning of the Act. Replicating this approach is the only certain way of ensuring a change of use to a second home or short-term holiday let constitutes a material change of use and therefore requires planning permission.
- 4.10 This approach has been used in Scotland where changes made to primary legislation through the Planning (Scotland) Act 2019, allow a planning authority to designate all or part of their area as a 'short-term let control area'. In designated areas, the use of a dwellinghouse for providing short-term lets constitutes a material change of use and therefore requires planning permission.
- 4.11 A similar approach in Wales would require amendments to section 55 of the TCPA. This can only be achieved through passing a Bill in the Senedd. Your views are invited on the principle of amending the TCPA as a long-term planning contribution to managing second homes and short-term lets.

Q5 Would you support amending primary legislation (i.e. the TCPA 1990) for the purpose of managing second homes and short-term holiday lets?

Proposed amendments to the Town and Country Planning (General Permitted Development) Order 1995 (GPDO)

- 4.12 Not every local authority has concentrations of second homes and/or short-term holiday lets, or experiences the same problems associated with such uses. If changes are made to the UCO it is likely that this would therefore create unnecessary resource pressures for many local planning authorities, such as the volume of planning applications being out of proportion to the scale of the problems they have with such uses.
- 4.13 It is therefore proposed, should the changes to the UCO be taken forward, to amend the GPDO to allow unlimited changes of use between a primary home, secondary home or short-term holiday let. Where they have the appropriate evidence local authorities would be able to use existing powers to issue a direction using Article 4 of the GPDO to remove the permitted development rights for a defined area (see paragraphs 4.18 – 4.23).

4.14 A summary of the effect of the proposed amendments to Part 3 of the GPDO is set out below:

Table 2: Proposed permitted changes of use	
From	To
Class C3. Dwellinghouse; Primary homes	Class C5. Dwellinghouse; Secondary homes Class C6. Short-term lets Mixed use (Class C3 & Class C6) Mixed use (Class C5 & Class C6)
Class C5. Dwellinghouse; Secondary homes	Class C3. Dwellinghouse; Primary homes Class C6. Short-term lets Mixed use (Class C5 & Class C6)
Class C6. Short-term lets	Class C3. Dwellinghouse; Primary homes Class C5. Dwellinghouse; Secondary homes
Mixed use (Class C3 & Class C6)	Class C3. Dwellinghouse; Primary homes Class C5. Dwellinghouse; Secondary homes Class C6. Short-term lets
Mixed use (Class C5 & Class C6)	Class C3. Dwellinghouse; Primary homes Class C5. Dwellinghouse; Secondary homes Class C6. Short-term lets

4.15 The intention is that planning permission would not be required to change from a C5 (Secondary Homes) or C6 (Short-term Let) dwelling to a C3 (Primary Homes) in any case. This ensures properties in use as second homes or short-term holiday lets can return to general C3 housing supply without impediment, particularly in areas where there are localised housing pressures.

4.16 A mixed use may occur where a dwellinghouse has no defined primary use, such as where a proposed use class C5 (Secondary Homes) is also used for part of the year to provide short-term lettings (use class C6). Generally, a mixed use is considered a 'unique use' (i.e. sui generis) and therefore development consisting of a change of use to a mixed use may require planning permission. Permitting changes of use to and from a mixed use as set out in Table 2 will provide clarity that where a mixed use occurs, planning permission is not required since it will be granted by the GPDO.

4.17 Planning permission will be required if any of the aforementioned changes of use facilitated the creation of additional units of accommodation.

Q6 Do you agree the GPDO should be amended to permit changes of use set out in Table 2 if the proposed changes to the UCO are taken forward? If not, please explain why.

The use of Article 4 Directions

- 4.18 Article 4 Directions are one of the tools available to local planning authorities which allow them to respond to the particular needs of their areas. They provide local planning authorities with the ability to restrict 'permitted development' rights which would otherwise apply by virtue of the GPDO where it is considered expedient to do so. An Article 4 Direction does not stop development. Instead it requires planning permission to be obtained from the local planning authority so the planning impacts of the development can be considered before a decision is taken on whether it can proceed.
- 4.19 The Welsh Government is currently re-consulting upon proposed amendments to simplify the Article 4 process (originally proposed in 2018). The consultation is available on the following link: <https://gov.wales/amendments-permitted-development-rights>.
- 4.20 No fee is payable for a planning application made in respect of what would have been permitted development had there been no Article 4 Direction (Regulation 5 of the Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) Regulations 2015).
- 4.21 The Welsh Government consider Article 4 Directions provide a means for local planning authorities to address local circumstances in response to changes to permitted development rights. In the case of managing second homes and short-term holiday lets, we want to support local planning authorities in controlling the exercise of the new permitted development rights in specific, targeted locations within their administrative area where evidence suggests such uses are currently harming local amenity, community wellbeing or the proper planning of the area, or where further exacerbation of such uses would cause harm.
- 4.22 The planning impacts arising from second homes and short term holiday lets are not an all-Wales problem. Article 4 Directions provide the targeted approach required to address what is a local issue. The use of an Article 4 Direction could be enforced by those local authorities who wished to control the level of additional second homes and short-term holiday lets, whilst changes of use in all other areas would be permitted development (where a material change of use occurs).
- 4.23 Where a permitted development right is in place, planning permission is not required. As a result, it will only be where an Article 4 direction has been made that planning permission may be required to change between the use classes. A material change of use would have to occur for permission to be required (which will be decided on a case by case basis). It will not operate retrospectively to result in an existing use requiring planning permission. Where it can be evidenced that a property has been used as a second home or short term holiday let prior to the Article 4 direction coming into force, planning permission will not be required to continue such use. Only proposed changes of use that occur after the Article 4 direction is in force may require planning permission.

Q7

Do you agree the use of Article 4 Directions by local planning authorities provides an appropriate targeted response to a location-specific issue? If not, please explain why and/or suggest an alternative approach.

Compensation

- 4.24 Section 108 of the TCPA provides for the payment of compensation in certain cases where planning permission for development granted by a development order or a local development order is withdrawn and where, on an application for planning permission for that development, the application is refused or permission is granted subject to conditions. Section 108 also enables the circumstances in which compensation is payable to be limited.
- 4.25 The Town and Country Planning (Compensation) (Wales) (No 2) Regulations 2014 prescribe the types of development where compensation is payable, specifically:
- Part 1 (development within the curtilage of a dwellinghouse);
 - Class A of Part 8 (extension or alteration of an industrial building or warehouse) and Class E (refuse and cycle stores within the curtilage of an industrial building or warehouse);
 - Part 32 (schools, colleges, universities and hospitals);
 - Part 40 (installation of domestic microgeneration equipment);
 - Part 41 (office buildings);
 - Part 42 (shops and financial or professional services establishments)
 - Part 43 (installation of non-domestic microgeneration equipment)
 - Part 24 (development by electronic communications code operators (Wales)) to the extent that paragraph A.2(4A) disapplies the conditions in paragraph A.3 of Class A and applies the conditions in paragraph A.2(4B) of Class A.
- 4.26 The effect of these Regulations is that when the aforementioned permitted development rights are withdrawn by an Article 4 Direction, a person who makes a planning application for a development which would have been permitted development in the absence of the Article 4 direction has a right to compensation if that planning permission is refused or is granted subject to conditions other than those imposed by the GPDO.
- 4.27 The right to compensation is subject to restrictions, specifically compensation is only payable where the planning application is made within twelve months of the Direction coming in to force.
- 4.28 The compensation arrangements set out above do not apply to Article 4 Directions restricting or preventing development granted by Part 3 (Changes of Use) of Schedule 2 to the GPDO.
- 4.29 If the proposals set out in this consultation are taken forward a local planning authority will be able to make an Article 4 Direction dis-applying permitted development rights for changes of use, such as from a C3 dwellinghouse to C5 second home or C6 short-term holiday let. In doing so, no compensation will be payable in the event that the authority refuses a subsequent application (or grants consent subject to conditions other than those imposed by the GPDO) within 12 months of the Direction coming into force.
- 4.30 Your views are invited on whether an avenue for claiming compensation should be available to applicants where planning permission is refused within the prescribed period.

Q8

In respect of change of use to a second home or short-term holiday let, where an Article 4 Direction is made, should applicants have a right to claim compensation if a local planning authority refuses permission or grants permission subject to conditions other than those imposed by the GPDO within the first 12 months?

Proposed amendments to Planning Policy Wales

- 4.31 One of the key contributions the planning system can make to the operation of local housing markets is ensuring that there is an adequate supply of sites for new homes for local people. As set out in Planning Policy Wales (PPW), to do this planning authorities must first understand all aspects of their housing markets and the factors influencing housing requirements in their area. This includes understanding issues related to the affordability of housing for local communities. Using this evidence, together with their development plan aspirations, local authorities are enabled to develop policies to meet the challenges and particular circumstances evident in their area.
- 4.32 As outlined above, an example of one of the factors that can have an impact on access to housing and affordability in a local area is the prevalence of second homes and/or short-term holiday lets. Whilst this is not a pan-Wales issue, it is one that is affecting a number of communities and can provoke strong feelings at a local level.
- 4.33 As outlined in paragraph 3.8 above, local planning authorities are not widely making use of local policies to address specific localised housing issues. To rectify this, we are proposing amendments to PPW to make it explicit that, where relevant, the prevalence of second homes and short-term holiday lets in a local area is one of the particular circumstances local planning authorities should seek to address. Where relevant and supported by evidence, this issue can be taken into account when planning for new housing and, in particular, when reviewing Local Development Plans.
- 4.34 It is also proposed that where localised policies are developed to control the impact of second homes and short-term holiday lets, new homes will require restrictions, by condition or obligation, as Class C3 Dwellinghouses (Primary Homes) and consideration given regarding whether to restrict permitted development rights to help manage changes of use of existing houses within communities.
- 4.35 The proposed amendments to PPW are set out in **Appendix 1**.

Q9

Do the proposed amendments to PPW make it clear that the prevalence of second homes and short-term holiday lets must be considered by local planning authorities when developing the requirement for market and affordable homes within a particular area and whether a local policy approach is required in a Local Development Plan (LDP)?

Q10

Do the proposed amendments to PPW support the proposed amendments to the:

- Town and Country Planning (Use Classes) Order 1987 (UCO); and
- Town and Country Planning (General Permitted Development) Order 1995 (GPDO)

5.0 Consequences of the proposed changes

- 5.1 We are aware that the proposed planning changes may have positive and negative consequences for local communities and local planning authorities. Any proposed changes need to be considered in this context. Research has highlighted a number of consequences the management of second homes may have on an area. In this respect, Dr Simon Brooks has specifically outlined the consequences of proposed planning measures in his report *Second homes: Developing new policies in Wales*. These consequences could also equally apply to short-term holiday lets.
- 5.2 The following sections and associated questions will assist the Welsh Government understand the practical and financial impact the amendments, if they are made, may have on individuals, communities and local planning authorities:

Local housing market / Impact on house prices

- 5.3 It is widely accepted that second homes and short-term holiday lets may reduce housing stock available to local people and are a factor in increasing house prices in local communities. These are the direct impacts, as a result of which, local residents are thought to be less able or unable to afford to buy or rent. Consequently, these individuals may leave their communities to find suitable accommodation.
- 5.4 However, research has also suggested that the proposed planning measures may have both positive and negative impacts on local residents and the wider community in which they apply. Research has highlighted the possibility of the planning measures, in respect of changes to the UCO and local policy approaches, creating two housing markets in communities where converting a dwelling house into a second home would be a planning matter. It is considered that a (first) market would exist with houses that could not be sold as second homes and a (second) market with houses that could be sold as second homes. Consequently, there is a strong possibility that house prices in the 'first market' would fall and house prices in the 'second market' increase. This would have implications for the local population. One would be beneficial, which is that certain houses would become more affordable. However, there would be a potential disadvantage too, which is that existing dwelling houses might lose a significant amount of value while existing second homes might rise considerably in value. Dr Brooks specifically states that:

“This would have a disproportionate impact on different groups. On the whole, local people would be the owners of property in the first market and people from outside the community would own property in the second market. The financial burden of the new policy would fall disproportionately on home owners from within the local community.”

5.5 In addition, given it is proposed that the planning measures are focused on specific communities which can evidence issues associated with second homes, through the use of Article 4 directions and locally specific policies in Local Development Plans, concern has been expressed that the proposals may not resolve the issues but displace them to neighbouring communities or local authorities. Dr Brooks specifically highlights the risk of displacing the second homes problem into neighbouring communities and gives the following example:

“.....if it became harder to buy a second home in an attractive coastal community, some might consider buying a second home in a nearby inland community or town. From a language planning perspective, the problem is that while many coastal communities have already undergone significant Anglicisation, towns and inland villages are often still very Welsh-speaking. Displacing second homes might have a detrimental linguistic impact on viable Welsh-speaking communities currently largely unaffected by second homes, whose linguistic character it is important to protect.”

Q11

Do you consider the potential positive consequences of the proposed planning measures for the management of second homes and short-term holiday lets outweigh the potential negative consequences (or vice versa) regarding house prices and the impact on the local housing market? Please explain your response, with reference to evidence where appropriate.

Economic impacts

5.6 Research has highlighted that the positive and negative economic impacts second homes and short-term holiday lets have in an area is hard to assess. This is particularly in relation to the economic impact of second homes. For example, there is little objective data on the impact of second homes on house prices and the expenditure of their owners in the local communities.

5.7 In terms of short-term holiday lets, research suggests that they attract tourists and increase the profile of the area as an attractive tourist destination, consequently benefitting the local economy. However, it is also argued that short-term-holiday lets in Wales are heavily concentrated in areas where tourism already plays a significant part in the regional economy, often attributed to the draw of the natural and coastal environments.

Q12

Do you have any comments or evidence about the potential consequences, both positive and / or negative, the proposed planning measures for the management of second homes and short-term holiday lets may have for local economies?

Implications for Local Planning Authorities

5.8 As outlined in earlier sections, the planning measures being proposed are designed to support local authorities in managing the impact of second homes and short-term holiday lets in their areas. Consequently, local planning authorities will play a leading role in any changes made to the planning system and in their implementation.

- 5.9 Given the proposed measures would allow local planning authorities to restrict permitted development rights on new housing developments, or to identify an area-specific Article 4 Direction, to help manage changes of use of existing houses within communities, there are specific implications for the development management, enforcement and development planning functions of an authority. These have been specifically highlighted in a number of research reports and by stakeholders, examples of which are outlined below:

Development Management

- 5.10 In respect of the development management function, research has highlighted concern regarding the potential increase in work associated with the consideration of planning applications, lawful development certificates and appeals.
- 5.11 A particular issue which has been highlighted, at least in the short-term, is the likely increase in applications for lawful development certificates as owners of second homes and short-term holiday lets seek to establish their position⁵. As outlined in section 4, planning permission may only be required where an Article 4 Direction is made removing the permitted development rights for changes of use. However, this cannot be applied retrospectively and owners of properties may use the lawful development certificates process as a way of establishing that their property has been used as a second home or short-term let prior to the Article 4 Direction coming into force.

Enforcement

- 5.12 A key issue identified in the research reports is associated with the challenges of enforcement. It is accepted that for the proposed planning measures to be effective appropriate evidence gathering, monitoring and enforcement of second homes and short-term holiday lets would be required. However, it has been questioned whether there are sufficient resources in planning authorities to undertake these additional tasks.
- 5.13 An inability on the part of local authorities to enforce the proposed planning interventions may limit the extent to which these efforts address the impact of second homes. Issues of monitoring and enforcement could also be compounded post-Covid where working patterns may be more fluid and therefore harder to define.

Development Planning

- 5.14 As highlighted above, research has concluded that the significance of the impact of second homes and short-term holiday lets needs to be analysed by local planning authorities at a local level to provide an evidence base for them to develop and justify local policies. Through the development plan monitoring process local planning authorities would also need to evaluate the effectiveness of their local policies.
- 5.15 As outlined in section 4, the proposed amendments mean planning permission may be required where an Article 4 Direction is made removing the permitted development rights for changes of use. As a result of the proposed amendments the decision-maker, whether this is the local planning authority or a Planning Inspector, will need to assess the proposal for a change of use against local planning policies.

⁵ A local planning authority can grant a certificate confirming that a proposed use of a building be lawful for planning purposes.

Consequently, local planning authorities will need to consider whether they need to develop, adopt and monitor local policies, which may have resource implications for the authority.

Q13 Applicable to local planning authorities only:

Do you consider that local planning authorities have sufficient resources to undertake an appropriate level of evidence gathering, monitoring and enforcement for the effective implementation of the proposed planning measures? Please explain your response, with reference to evidence where appropriate.

Back-office systems

- 5.16 The Welsh Government acknowledges that local authorities are using a wide range of IT systems (back-office) to support their planning service, with varying update intervals and contractual obligations in respect of delivering updates when changes are made to the planning application forms.
- 5.17 Introducing new use classes to the UCO will result in amendments being required to application forms. Changes to local authorities' back-office systems may be required as a consequence of these changes.
- 5.18 Local authorities are requested to share information with the Welsh Government on their current IT system to provide the evidence base in respect of the cost/resource implications for them when changes are made to planning application forms (that require back-office systems to be updated).

Q14 Applicable to local planning authorities only:

- What IT (back-office) system is currently used (including version number)?
- What are your contractual arrangements (i.e. costs) for making changes as a result of a Welsh Government legislative change?
- How long would it take to implement changes to your IT system?
- What is the expiration date of your current contract with your IT system supplier?
- How much staff time is required (per application) to manually enter applications into your back-office system where it cannot be automatically received?

Welsh language considerations

Q15 We would like to know your views on the effects of 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 could positive effects be increased, or negative effects be mitigated?

General considerations

Q16 We have asked a number of specific consultation questions. If you have any related issues which we have not specifically addressed, please use the space below to raise them.

6.0 What are the next steps following the consultation?

- 6.1 All the responses to this consultation will be analysed and considered and the Welsh Government will subsequently make a decision about whether or not to implement the proposed changes to secondary legislation and national planning policy.

Appendix 1:

Proposed changes to PPW section 4.2, 'Housing' regarding: affordability and the impact of second and short-term holiday lets

New text – red and underlined

Housing Requirement

4.2.5 Planning authorities must clearly set out the housing requirement in their development plan. These requirements must be based on evidence and clearly express the number of market and affordable homes the planning authority considers will be required in their area over the plan period. Planning authorities should plan for a mix of market and affordable housing types to meet the requirement and specifically consider the differing needs of their communities; this should include the housing requirements of older people and people with disabilities. Localised issues, such as the prevalence of second homes and short-term holiday lets, must also be considered when developing the requirement for market and affordable homes within a particular area and whether the evidence suggests that a local policy approach is needed.

....

4.2.9 Planning authorities, in partnership with the community, including the private sector, must develop policies to meet the challenges and particular circumstances evident in their areas. If these policies need to diverge from national policies in order to meet specific local housing needs for market housing, which normally would have no occupancy restriction, planning authorities must provide clear and robust evidence to support the approach taken. The justification might be in terms of, for example, land supply, environmental or social impacts either individually or in combination. Evidence could be obtained from local studies such as those deriving from the local well-being plans or from studies forming part of the evidence base for the development plan, particularly the Local Housing Market Assessment. Such evidence may also highlight the impact of second homes and short-term holiday lets on specific local communities. The sustainability appraisal, including the Strategic Environmental Assessment (SEA), would be part of the evidence base providing justification for a departure from national policy.

New Paragraph:

Where localised policies are developed to control the impact of second homes and short-term holiday lets, the approach taken may require restrictions, by condition or obligation, and the specific identification of new homes as Class C3 Dwellinghouses. In addition, consideration may be required regarding whether to restrict permitted development rights on new housing developments, through the production of an area specific Article 4 Direction to help manage changes of use of existing houses within communities. Further guidance on the use of Article 4 Directions is provided in the Development Management Manual.

Affordable Housing

4.2.27 It is important that authorities have an appreciation of the demand for different types of affordable housing (i.e. intermediate and social rented) in relation to supply, so that they are well informed in negotiating the required appropriate mix of dwellings for new

developments. To support policies and decisions on planning applications, planning authorities should refer to their LHMA to help determine the need for affordable housing, including any evidence of localised affordability issues such as the impact of second homes and short-term holiday lets.