

**Number: WG43214**



Llywodraeth Cymru  
Welsh Government

## Welsh Government Consultation Document

# Permitted Development

Amendments to the Town and Country Planning (General Permitted Development) Order 1995

Date of issue: 16 November 2021  
Action required: Responses by 15 February 2022

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

**Overview**

This consultation contains proposals to amend 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 **15 February 2022**.

You can reply in any of the following ways -

**Online:**

Please complete the online consultation response form on the following link:

<https://www.smartsurvey.co.uk/s/5RJZZK/>.

**Email:**

Please complete the consultation response form at the end of this document and email to [planconsultations-e@gov.wales](mailto:planconsultations-e@gov.wales).

(please include 'Permitted Development Consultation' in the subject line)

**Post:**

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

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.**

**Contact details**

For further information:

Post:

Planning Directorate  
Welsh Government  
Cathays Park  
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CF10 3NQ

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

**Also available in  
Welsh at:**

<https://llyw.cymru/diwygiadau-i-hawliau-datblygu-ganiateir>

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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.

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- to (in certain circumstances) object to or restrict processing
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- 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 GDPR, please see contact details below:

Data Protection Officer:  
Welsh Government  
Cathays Park  
CARDIFF  
CF10 3NQ

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/>

e-mail:

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

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## 1. Introduction

- 1.1 Permitted development is development which can be undertaken without the need to apply for planning permission, as permission has already been granted by the Town and Country Planning (General Permitted Development) Order 1995 (GPDO). The GPDO contains 43 parts which grant planning permission for a wide range of developments across many different sectors.
- 1.2 To support the reopening of businesses and efforts to create safe environments, enabling the public to feel confident to return to the high street, earlier this year the Welsh Government temporarily relaxed planning control for specified development through amendments to the GPDO (the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (Wales) Order 2021). Greater flexibility was provided for changes of use within town centres, on a temporary basis to, for example, encourage the reuse of vacant retail units. A targeted 14 day consultation was undertaken with Local Planning Authorities (LPAs) through the Planning Officers Society for Wales (POSW), the Country Land and Business Association (CLA) and Regional Town Centre Action Groups prior to the Order being made.
- 1.3 This consultation seeks wider public and stakeholder views on these permitted development rights (PDRs) with a view to them becoming permanent additions to the GPDO in 2022.
- 1.4 New permanent permitted development rights were also introduced for NHS bodies (Part 3A of the GDPO) and local authorities (Part 12A of the GDPO) as part of the Welsh Government's response to Coronavirus (COVID-19) in 2020. Due to the emergency need for these PDRs to assist with the response to COVID-19, at the time the Welsh Government did not undertake a consultation before the relevant Orders came into force. The views of stakeholders are therefore sought retrospectively as part of this consultation. This is an opportunity to provide feedback on how these PDRs have been used in practice.
- 1.5 The consultation also invites comments on proposals contained within a previous consultation published in 2018. The '[Subordinate Legislation Consolidation and Review](#)' consultation ("the 2018 consultation") sought views on proposals to consolidate and make selected amendments to the GPDO. An interim order (The Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2019) was made providing for electric vehicle charging infrastructure, renewable energy and telecommunications proposals. The remaining proposals from the consultation have yet to be taken forward. The proposals to be retained and taken forward are included as part of this consultation.
- 1.6 The 2018 consultation included proposals to reform and consolidate the Town and Country Planning (Use Classes) Order 1987 (UCO).
- 1.7 Wholesale changes to the UCO, in particular to the A Class uses that would impact upon commercial centres, will be considered as part of a wider area of

work focusing on town centre regeneration post-COVID-19. Any proposals arising from this workstream will be subject to future consultation. Notwithstanding this, the proposed amendment to use Class A2 removing betting shops to become a unique use (Q2) and the technical amendments to the B Use Class (Q14) will be taken forward at the earliest opportunity. Both amendments received support from the majority of those who responded to the relevant questions in the 2018 consultation.

- 1.8 Finally, it is proposed to provide greater flexibility through PDRs for the installation of electric vehicle charging infrastructure, to contribute towards the delivery of the Welsh Government's Electric Vehicle Charging Strategy.

## **2. Recovery Permitted Development Rights**

### Additional temporary use of land

- 2.1 Class B of Part 4 of Schedule 2 of the GPDO provides for the temporary use of land (excluding buildings) for 28 days, subject to limitations and conditions. This is reduced to 14 days for specified uses, such as holding a market (see paragraph 2.9). These PDRs are used to provide a variety of uses including festivals, fairs, markets and leisure uses.
- 2.2 Class A (additional temporary use of land during the relevant period) in the new Part 4A of Schedule 2 (introduced by the 2021 amendment Order) permits an additional period of 28 days for a temporary use of land of which 14 days may be for the holding of a market or for the purposes of motor car and motorcycle racing (including trials of speed, and practising for these activities) during the period beginning 30 April 2021 and ending on 3 January 2022. The provision of moveable structures for the purpose of the use is also permitted. Development is not permitted to a building or in the curtilage of a building where there is also a scheduled monument. Some types of development are not permitted where the land is in the curtilage of a listed building, is within a site of special scientific interest or is within a National Park.
- 2.3 These permitted development rights have been used to provide a variety of uses including campsites, festivals, fairs, weddings, markets and other leisure uses.
- 2.4 Landowners are responsible for operating the temporary uses in ways that minimise disturbance to local residents with local authorities having powers to intervene where statutory nuisances occur.

### **Proposal**

- 2.5 Extending the time allowed for temporary uses of land has provided a valuable boost, supporting economic recovery in the hospitality, leisure and tourism sectors.
- 2.6 With restrictions upon foreign travel, the temporary permitted development rights have been particularly beneficial in enabling the provision of additional capacity for campsites and broaden the range of tourist provision available to cater for the increase in 'staycations'.
- 2.7 The Welsh Government are aware of instances where planning impacts have arisen as a result of some temporary uses. However, there is a fine balance between the potential adverse impacts arising from such uses, which are mitigated due to the temporary nature of the uses, and the wider economic benefits.
- 2.8 The Welsh Government want to understand the benefits of retaining the additional days for temporary uses to take place and gain a better understanding of the impacts. View are also sought on proposed mitigation if they were to be made permanent.



**Q.1** Should the additional days granted by Class A of Part 4A be retained permanently, permitting temporary uses to take place for up to 56 days (28 days for specified uses) in a calendar year?

**Q.2** Do you have any evidence as to any benefits and impacts as a result of introducing the additional number of days for temporary uses to take place since April? If yes, please specify.

**Q.3** Do you have views on whether there should be additional restrictions on the use of this PDR to mitigate against potential impacts of making this permanent? If yes, please specify.

### Holding of a market

- 2.9 Prior to the pandemic, Class B of Part 4 of Schedule 2 to the GPDO provided for the temporary use of land (excluding buildings) for use as a market for 14 days. Class A of Part 4A was introduced to temporarily provide an additional 14 days until 3 January 2022. These PDRs are used by the private sector, third sector and the wider public to host markets, including car boot sales, fetes and food festivals.
- 2.10 To assist local authorities in their efforts to support businesses following the relaxation of the COVID-19 restrictions, PDRs (Class B of Part 4A) have been introduced permitting the use of land (excluding within a site of special scientific interest) for an unlimited period by local authorities for the purpose of holding a market. The erection of temporary moveable structures, such as stalls or awnings, to facilitate the use are also permitted.
- 2.11 A 'sunset clause' applies which means the additional days provided for by Classes A and B of Part 4A end on 3 January 2022. After this period, local authorities will only be able to use Class B of Part 4 which permits the temporary use of land to provide a market for up to 14 days a year.

### **Proposal**

- 2.12 Temporary markets provide a low-cost opportunity for small traders and start-ups to sell their goods, fund raising potential for third sector and community groups and consequential economic/tourism benefits to the host location. These benefits may however be set against temporary planning impacts such as noise, traffic generation and disturbance of residential amenity.
- 2.13 Notwithstanding this, the Welsh Government would welcome your views on whether the current PDRs provide sufficient flexibility for the provision of markets. Your views are invited on whether the existing 14 day limitation under Class B of Part 4 should be extended.

**Q.4** Should the number of days for holding a market generally be extended? If Yes, what is an acceptable number of days for holding a market? What conditions should apply to manage the planning impacts?

**Q.5 Should any additional days over the permitted 14 days be provided for markets operated by or on behalf of a local authority?**

Temporary uses (Town Centres)

2.14 In light of the significant pressures to town centre uses, the Welsh Government introduced new permitted development rights for changes of use within town centres to give landlords and businesses a small amount of breathing space to trial changes of use to uses of similar planning impacts for a short time. The permitted changes are as follows:

Part 4A	Existing Use (within town centres only)	Permitted Change
Class C	Use class A1 (shops)	<ul style="list-style-type: none"> <li>• A2 (financial and professional services);</li> <li>• A3 (food and drink);</li> <li>• B1 (business);</li> <li>• D1 (non-residential institutions);</li> <li>• D2 (assembly and leisure).</li> </ul>
Class D	Use class A2 (financial and professional services)	<ul style="list-style-type: none"> <li>• A1 (shops);</li> <li>• A3 (food and drink);</li> <li>• B1 (business);</li> <li>• D1 (non-residential institutions);</li> <li>• D2 (assembly and leisure).</li> </ul>
Class E	Use class A3 (food and drink)	<ul style="list-style-type: none"> <li>• A1 (shops);</li> <li>• A2 (financial and professional services);</li> <li>• B1 (business);</li> <li>• D1 (non-residential institutions);</li> <li>• D2 (assembly and leisure).</li> </ul>

2.15 The permitted change of use only applies to buildings within a town centre as identified in a development plan, with the whole planning unit falling within the town centre boundary in order to be considered permitted development.

2.16 To protect residential amenity, for all the above permitted changes of use, development is not permitted if the proposed A3 use is the sale of hot food for consumption off the premises; or where the proposed use is Class B1(c) (i.e. for any industrial process). These uses could potentially result in planning impacts that require further consideration through the submission of a planning application. A notification procedure also applies to assist LPAs with monitoring.

2.17 Currently, changes of use are permitted for a six month period beginning with the date on which the development began and must end on or before 29 April 2022,

unless planning permission is granted for the retention of the use. The use of the building may revert to the original use at any time during the six month period.

## Proposal

- 2.18 Prior to the pandemic, there was a growing need to diversify retail and commercial centres so they can adapt to future retail trends and continue to meet the needs of their local communities. This will be even more important as we move forward due to the impact of COVID-19. Numerous vacant units cause demonstrable harm to the character and vibrancy of town centres and have a ripple effect, reducing commercial confidence in the area and its attractiveness to the public. Encouraging alternative commercially viable uses can bring social, economic and regeneration benefits.
- 2.19 The Welsh Government intends to undertake a wider regeneration led review of town centre policy, revisiting the use classes order, Technical Advice Note 4: Retail and Commercial Development and Planning Policy Wales to determine whether any steps can be taken to promote greater flexibility in retail/commercial centres to reflect the versatility necessary to maintain vibrant spaces post-COVID-19.
- 2.20 Prior to this, as an initial step, it is proposed to make the temporary changes of use introduced by Classes C, D and E of Part 4A permanent. The six month trial period would be removed, allowing the changes of use to be retained in perpetuity. The requirement for the property to be within the town centre and the LPA notification process would remain. Proposed changes of use to the sale of hot food for consumption off the premises and uses within Class B1(c) of Schedule 1 to the Use Classes Order would continue to be excluded.

Existing Use	Permitted Change	Not permitted	Conditions
Use class A1 (shops)	<ul style="list-style-type: none"> <li>• A2 (financial and professional services);</li> <li>• A3 (food and drink);</li> <li>• B1 (business);</li> <li>• D1 (non-residential institutions);</li> <li>• D2 (assembly and leisure).</li> </ul>	<ul style="list-style-type: none"> <li>• the whole of the building does not fall within a town centre;</li> <li>• the proposed A3 use is the sale of hot food for consumption off the premises;</li> <li>• the proposed use is Class B1(c) of Schedule 1 to the Use Classes Order.</li> </ul>	<ul style="list-style-type: none"> <li>• the developer must, as soon as reasonably practicable, notify the LPA of the development</li> </ul>
Use class A2 (financial and	<ul style="list-style-type: none"> <li>• A1 (shops);</li> <li>• A3 (food and drink);</li> <li>• B1 (business);</li> </ul>	<ul style="list-style-type: none"> <li>• the whole of the building does not fall within a town centre;</li> </ul>	<ul style="list-style-type: none"> <li>• the developer must, as soon as reasonably practicable,</li> </ul>

professional services)	<ul style="list-style-type: none"> <li>• D1 (non-residential institutions);</li> <li>• D2 (assembly and leisure).</li> </ul>	<ul style="list-style-type: none"> <li>• the proposed A3 use is the sale of hot food for consumption off the premises;</li> <li>• the proposed use is Class B1(c) of Schedule 1 to the Use Classes Order.</li> </ul>	notify the LPA of the development
Use class A3 (food and drink)	<ul style="list-style-type: none"> <li>• A1 (shops);</li> <li>• A2 (financial and professional services);</li> <li>• B1 (business);</li> <li>• D1 (non-residential institutions);</li> <li>• D2 (assembly and leisure).</li> </ul>	<ul style="list-style-type: none"> <li>• the whole of the building does not fall within a town centre;</li> <li>• the proposed use is Class B1(c) of Schedule 1 to the Use Classes Order.</li> </ul>	<ul style="list-style-type: none"> <li>• the developer must, as soon as reasonably practicable, notify the LPA of the development</li> </ul>

**Q.6 Do you agree the permitted changes of use within town centres should become permanent? If not, please provide your reasons for disagreeing.**

Hospitality uses – outdoor servery provision

- 2.21 To promote the use of outdoors and reduce the risk of patrons spreading COVID-19, whilst also enabling businesses to operate to their maximum permitted capacity with minimal administrative requirements, PDRs were introduced.
- 2.22 Class F of Part 4A permits the use of the highway adjacent to premises falling within Class A3 (food and drink) for the purposes of selling or serving food or drink supplied from those premises or consuming food or drink supplied from those premises. The placement of removable furniture to facilitate the use is also permitted. This includes tables, forms of seating, counters, stalls, umbrellas, barriers and heaters or other articles used in connection with the outdoor consumption of food or drink.
- 2.23 Prior to the pandemic there was duplication in the consenting process to operate businesses on the highway as the formal consent of the highway authority is also required. Consideration in both consenting processes was given to highway safety. Even though planning permission is currently granted by Class F, consent from the highway authority means active consideration is given to the highway safety implications of the development.
- 2.24 Use of the area by customers is also prohibited between 10 p.m. and 8 a.m. to protect the amenity of neighbouring residential properties.

2.25 Consent for permitted spaces ceases on 3 January 2022, after which the use must cease and the highway returned to its prior condition.

**Proposal**

2.26 The use of outdoor spaces for hospitality uses adds vibrancy to public spaces whilst providing improved ventilation and physical distancing for patrons. The separate consenting process under the Highways Act 1980 also ensures the primary matter of highway safety is considered before any development takes place. It is therefore proposed to remove the sunset clause, to continue to allow the use of land adjacent to hospitality uses for the purposes of selling or serving food or drink supplied from those premises or consuming food or drink supplied from those premises without the need for planning permission. Amenity considerations can be controlled through limitations/conditions. All existing limitations/conditions imposed by Class F, Part 42, would apply.

**Q.7 Do you agree the permitted development right for the use of the highway adjacent to a hospitality use for that purpose should be made permanent? If not, please provide your reasons for disagreeing.**

**Q.8 If you answered yes to Q7, are any additional conditions required to mitigate potential amenity impacts?**

Hospitality uses – Awnings

2.27 To facilitate outdoor trading space for hospitality uses in inclement weather, Class D of Part 42 was introduced which permits the erection of retractable awnings over the frontage of premises falling within Use Class A3 (food and drink) of the Schedule to the UCO.

2.28 Development is excluded on article 1(5) land, within a World Heritage Site, and on listed buildings due to the need for more detailed consideration of the planning impacts upon their special character.

2.29 Where an awning extends over a public highway, permission must have been obtained from the relevant highway authority under section 115E of the Highways Act 1980 for the installation of the awning and the use of the space under it. This ensures the highway safety implications of the development are fully considered by the relevant highway authority.

2.30 Conditions also seek to limit the visual impact by requiring awnings to be fully retractable (and fully retracted between 10 p.m. and 8 a.m.), with no means of support from the public highway and exclude any side or front panels extending towards the ground in the interest of highway safety.

2.31 At present, a planning application is not required for awnings installed before 29 April 2022. After this date planning permission will be needed for the installation of any new awnings.

## **Proposal**

2.32 It is proposed to remove the sunset clause, granting planning permission for awnings on the frontage of hospitality uses, subject to the existing limitations/conditions prescribed in Class D, Part 42.

<b>Q.9</b>	<b>Do you agree the permitted development right for the installation of awnings at hospitality uses should be made permanent? If not, please provide your reasons for disagreeing.</b>
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### 3. COVID-19: Emergency Permitted Development Rights

#### Part 3A Temporary Building and Changes of Use for Public Health Emergency Purposes

- 3.1 The Town and Country Planning (General Permitted Development) (Amendment) (Wales) (No.2) Order 2020 introduced PDRs to enable NHS bodies to undertake temporary development in response to COVID-19 and avoid the delay making and processing planning applications would inevitably involve, thereby enabling a quicker response to the emergency.
- 3.2 During a public health emergency, there is often a need for the NHS to respond rapidly to changing situations in the interests of preventing and mitigating a human health crisis. It is accepted that during such time the usual regulatory requirements may need to be relaxed, to ease pressure on the NHS and enable health service bodies to provide facilities to test, treat, and manage the recovery of an extremely high number of patients. With this in mind, the purpose of Part 3A is to permit certain development for the purposes of preventing, controlling or mitigating the effects of, or taking other action in connection with a public health emergency in the United Kingdom.
- 3.3 The development permitted is the change of use of a building or land to a use falling within Class C2 (Residential institutions) or Class D1 (Non-residential institutions) of Schedule 1 to the Use Classes Order, and the provision of buildings or other structures.
- 3.4 The PDRs have been used widely across Wales to provide facilities including field hospitals, testing stations, and vaccine centres as part of the response to the pandemic.
- 3.5 For the purpose of Part 3A, a public health emergency is an event or situation which causes or may cause loss of human life, serious human illness or injury; or serious disruption of services relating to health.
- 3.6 In the interests of public safety, development is not permitted under Part 3A if any part of the development is on land which is, or forms part of a military explosive storage area, a safety hazard area or a site of special scientific interest. Development is also not permitted if the land or building is, or contains, a scheduled monument. The PDR is also subject to conditions which are also set out in the new Part 3A at paragraph A.2. Those conditions are:
- The development must be undertaken by or on behalf of an NHS body;
  - If the developer is not also the LPA that the developer notify the LPA of the development;
  - The developer must stop using the land for the emergency purpose on or before the expiry of a period of 12 months from when it started;
  - Any structures and plant etc. must be removed and the building and/or land must be restored to its previous condition (or to an agreed condition) on or before the expiry of a period of 12 months from when the development

started. Alternatively, planning permission would have to be sought for any continuing use.

## **Proposal**

- 3.7 Due to the urgent need for the PDRs to assist with the response to COVID-19, the Welsh Government was unable to undertake a consultation on Part 3A PDRs before they came into force.
- 3.8 These PDRs are considered necessary to ensure NHS bodies have the powers available to them to continue to respond to the on-going COVID-19 pandemic, but also to act swiftly in the event of a future emergency. We therefore are proposing to retain these provisions.

### **Q.10 Do you have any comments regarding Part 3A?**

#### Part 12A Emergency Development by Local Authorities

- 3.9 The Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2020 introduced new permitted development rights to assist local authorities with their response to an emergency.
- 3.10 During an emergency, there is often a need for local government to respond rapidly to changing situations in the interests of preventing and mitigating a human health crisis. It is accepted that during such time usual regulatory requirements should be relaxed to aid considerable pressure on local authorities who have wide-ranging responsibilities relating to managing an emergency and need to take rapid actions.
- 3.11 Notwithstanding the urgency of emergency situations, it is the responsibility of local authorities to ensure their behaviour complies with the law. With this in mind, Part 12A grants local authorities permitted development rights to undertake any necessary temporary development on land owned, leased, occupied or maintained by it in response to an emergency. This includes the change of use of any building to any use and the erection of buildings or structures for purposes necessary as part of the local authorities' response to an emergency.
- 3.12 For the purpose of Part 12A, an emergency is an event or situation which threatens serious damage to human welfare in a place in the United Kingdom. An event or situation threatens damage to human welfare only if it involves, causes or may cause:
- a) loss of human life;
  - b) human illness or injury;
  - c) homelessness;
  - d) damage to property;
  - e) disruption of a supply of money, food, water, energy or fuel;
  - f) disruption of a system of communication;
  - g) disruption of facilities for transport; or
  - h) disruption of services relating to health.



3.13 The permitted development is subject to conditions set out in the new Part 12A. This includes a condition restricting the retention of development undertaken under this Part to a period of twelve months beginning with the date on which the development began. After this time the operational development must have been removed and temporary use ceased. The land must be restored to its previous condition before the development took place (or to such other state agreed with the local planning authority), or planning permission must be secured to retain the development.

### **Proposal**

3.14 Due to the urgent need for the PDRs to assist with the response to COVID-19, the Welsh Government was unable to undertake a consultation on Part 12A PDRs before they came into force.

3.15 These PDRs are considered necessary to ensure local authorities have the powers available to continue to respond to the on-going COVID-19 pandemic, but also to act swiftly in the event of a future emergency. We therefore are proposing to retain these provisions.

<b>Q.11</b> Do you have any comments regarding Part 12A?
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## 4. Houses of Multiple Occupation

- 4.1 There are circumstances where we consider the clarity of the law or changes to land use patterns, which require a review of the extent of the GPDO. The extension and alteration of houses in multiple occupation (HMOs) is one such development type requiring review.
- 4.2 Part 1 of Schedule 2 to the GPDO sets out PDRs for extensions and alterations to dwellinghouses. These PDRs do not apply where the building has been sub-divided into flats. This is because the huge variation in how dwellinghouses can be sub-divided makes it difficult at a national scale to anticipate how extensions or alterations may affect the amenity of adjoining occupiers.
- 4.3 Currently, for the purposes of the GPDO, an HMO is a dwellinghouse and therefore does benefit from PDRs. 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 less for the occupiers of an HMO compared to the occupier of a flat on the basis that 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.
- 4.4 The external effects of an HMO use provide additional reasons for seeking to apply additional restrictions on HMOs. 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

- 4.5 In order to enable better management of HMOs, it is proposed HMOs should no longer benefit from permitted development rights for alterations and extensions of a dwellinghouse granted by Part 1 of the GPDO. Development to a dwellinghouse, where it involves extending the property, in use as a HMO should require planning permission to enable LPAs to fully consider the planning impacts, particularly where extensions could result in the intensification of the use.

**Q.12 Do you agree that HMOs should not benefit from permitted development rights for alterations and extensions to a dwellinghouse granted by Part 1 of the GPDO? If not, please provide your reasons for disagreeing.**

## 5. Hard Surfacing

- 5.1 Class F of Part 1 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.
- 5.2 The frequency and severity of floods is increasing and is expected to further increase as a result of climate change. Flooding can place lives at risk, cause considerable personal trauma, result in extensive and expensive damage to property, impose pressures on emergency services and severely disrupt communications, business and commerce.
- 5.3 Heavy rain falling on impermeable surfaces can cause localised flooding almost anywhere. Heavy rain can also result in drainage systems and ordinary watercourses quickly becoming inundated, leading to localised flooding. As the climate changes, this type of flooding will become more commonplace and more severe. It is important that risks of flooding from surface water and ordinary watercourses are given full consideration by the planning system.

### Proposal

- 5.4 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.

<b>Q.13</b>	<b>Do you agree with the proposed alterations to Class F? If not, please suggest alternative approaches, restrictions or thresholds that could be adopted.</b>
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## 6. Electric Vehicle Charging

- 6.1 In 2019, new permitted development rights were introduced to facilitate the rollout of electric vehicle charging infrastructure within both public and private spaces.
- 6.2 The Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2019 introduced Classes D and E into Part 2 (minor operations) of the GPDO and made amendments to Part 12 (Development by Local Authorities) to provide clarification in respect of the scope of existing permitted development rights for local authorities.
- 6.3 In April 2021, the Welsh Government published the [Electric Vehicle Charging Strategy](#), setting out its plans for meeting the rapidly growing demand for charging cars and vans within Wales. The strategy established an ambitious Vision for charging in Wales:

*“By 2025, all users of electric cars and vans in Wales are confident that they can access electric vehicle charging infrastructure when and where they need it.”*

- 6.4 The strategy also identifies electric buses becoming increasingly commercialised over the next decade as battery technology improves. Electric buses are expected to represent 60% of the global municipal bus market by 2030 and 80% by 2040.
- 6.5 A key outcome needed to achieve the vision is an increase in the number of slow, fast and rapid/ultra-rapid chargers available in Wales. The Welsh Government recognises its enabling role in delivering this charging infrastructure and as such published a targeted [Action Plan](#) on 26 October detailing the steps needed to address the rapidly growing need.
- 6.6 The Action Plan identified the use of regulatory and planning levers, as well as land use planning guidance, use of public land and resources, funding, and targeted support programmes to contribute towards the delivery of the Strategy.
- 6.7 Whilst the permitted development rights introduced in 2019 removed initial barriers to the rollout of charging infrastructure, there is now a need for greater flexibility to contribute towards the provision of a network of rapid/ultra-rapid charging and to work with partners on the provision of infrastructure in the community to address the needs of those that are unable to charge off street.

### Proposal

- 6.8 To support the delivery of the Electric Vehicle Charging Strategy, the following changes to permitted development rights are proposed:

GPDO	Action	Effect
Part 2 (Minor Operations)	<p>Class D - Remove D1.(a) limitation on scale of outlet and its casing</p> <p>Class E - Increase the maximum permitted height of an upstand to 2.5m.</p> <p><u>New conditions:</u></p> <ul style="list-style-type: none"> <li>To protect amenity, a new condition restricting any advertisement to the provider and function of the infrastructure is proposed to prevent charging infrastructure being used as a means to install unrelated advertising without consent.</li> </ul>	Enable the installation of fast charging infrastructure on private and public land.
Part 12 (Development by Local Authorities)	<p>Development is permitted where it is undertaken by a third-party on behalf of (or in partnership with) a Local Authority.</p> <p><u>New conditions:</u></p> <ul style="list-style-type: none"> <li>To protect amenity, a new condition restricting any advertisement to the provider and function of the infrastructure is proposed to prevent charging infrastructure being used as a means to install unrelated advertising without consent.</li> <li>A new condition is proposed to ensure any infrastructure does not impede upon an active travel route.</li> </ul>	Clarity provided regarding where development is undertaken by a third party in conjunction with a Local Authority.
Part 13 (Development by Highway Authorities)	<p>Specify installation of electric vehicle charging infrastructure</p> <p><u>Conditions:</u></p> <ul style="list-style-type: none"> <li>As per LAs under Part 12</li> </ul>	Provides PDRs for the installation of electric vehicle charging infrastructure where the highway authority is not the local authority.
Part 17 (Development by Statutory Undertakers)	<p>Class H (Tramway or Road Transport Undertakings) – Specify installation of electric vehicle charging infrastructure</p> <p><u>New conditions:</u></p> <ul style="list-style-type: none"> <li>As per LAs under Part 12</li> </ul>	Clarity provided regarding the installation of electric charging infrastructure for buses within stations and depots

**Q.14** Do you agree greater flexibility should be provided through permitted development rights to accelerate the rollout of electric vehicle charging infrastructure? If not, please provide your reasons for disagreeing.

## **7. Avian Influenza**

- 7.1 Part 39 of Schedule 2 to the GPDO granted a temporary permitted development right until 21 March 2008 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.
- 7.2 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.
- 7.3 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**

- 7.4 It is proposed to bring Part 39 back into effect each time Avian Influenza controls are put in place (whether locally or nationally). Permitted development rights would last until the notification of the withdrawal of those controls and owners would then have 4 months to remove the temporary development.

<b>Q.15</b>	<b>Do you agree with reintroducing permitted development rights for the protection of poultry and other captive birds?</b>
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## 8. Article 4 Directions

- 8.1 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.
- 8.2 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.
- 8.3 In Wales, the GPDO currently provides for two types of Article 4 Directions:
- **Article 4(1)** - 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)** - Under Article 4(2) an LPA can make a Direction to restrict certain permitted development rights in Conservation Areas. Generally, Article 4(2) Directions only apply to dwellings and to external alterations to the elevations of properties fronting a highway, waterway or public open space. 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.
- 8.4 The Welsh Government supports 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.
- 8.5 We 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), which may be a deterrent for LPAs in using such powers.



## **Proposal**

- 8.6 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 Directions.
- 8.7 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

- 8.8 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.
- 8.9 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.
- 8.10 A Direction with immediate effect would last six months and would then expire unless confirmed by the LPA following consultation.
- 8.11 The general procedure is set out in Appendix A of this document.

### Directions without immediate effect

- 8.12 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.
- 8.13 The general procedure is set out in Appendix A of this document.

### Directions restricting certain minerals (permitted development)

8.14 Article 4(1) 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 remain unchanged.

### Exemptions

8.15 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

8.16 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

8.17 It is proposed to remove the need for the Welsh Ministers to confirm the majority of 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.

8.18 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

8.19 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.

**Q.16 Do you agree with the proposals for amending Article 4 Directions?**

## 9. Welsh language considerations

**Q.17** 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?

## 10. General considerations

**Q.18** 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.

## 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:

- give notice of confirmation
- 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:

- 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:
  - 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

## 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*

### 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

### 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”