



Llywodraeth Cymru
Welsh Government

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Welsh Government
Consultation – Interim summary of responses

Permitted Development

Summary of responses to question 16 – Article 4 Directions

September 2022

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.

This document is also available in Welsh.

Overview

A summary of the consultation responses to question 16 regarding amendments to procedures for making Article 4 Directions.

Action Required

This document is for information only.

Further information and related documents

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

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Additional copies

This summary of response and copies of all the consultation documentation are published in electronic form only and can be accessed on the Welsh Government's website.

Link to the consultation documentation: <https://gov.wales/amendments-permitted-development-rights>

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1. Introduction

- 1.1 The 'Permitted Development' consultation document was published on 16 November 2021 and was open for responses until 15 February 2022 - <https://gov.wales/amendments-permitted-development-rights>. It sought views on proposals to amend the Town and Country Planning (General Permitted Development) Order 1995 (as amended). Amendments proposed were:
- retention of COVID-19 related permitted development rights
 - removing permitted development rights for dwellings in use as houses of multiple occupation
 - amendments to existing permitted development rights for hard surfacing within the curtilage of a dwellinghouse
 - Expanding permitted development rights for electric vehicle charging infrastructure
 - Re-establishing permitted development rights for temporary structures in response to avian influenza
 - Amendments to procedures for making article 4 Directions
- 1.2 A total of 18 questions were set out in the consultation document, with a standard form, to be returned by post or email, and an online webform provided for ease of response.
- 1.3 This document provides a summary of the responses to question 16 only, regarding Article 4 Directions. The amendments set out in part 8 of the consultation are required as part of the Welsh Government 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. Further information is available on the Welsh Government website: <https://gov.wales/planning-legislation-and-policy-second-homes-and-short-term-holiday-lets>.
- 1.4 A full summary of the responses to the remaining questions in the consultation will be published later.

2. Responses

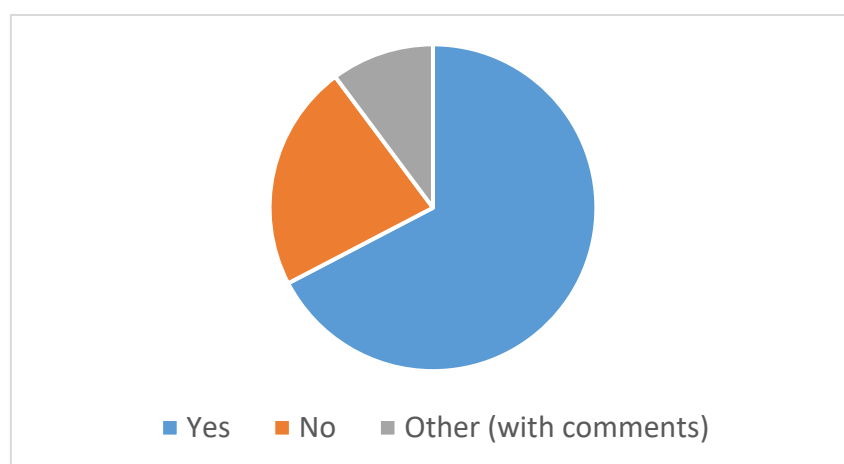
Q16. Do you agree with the proposals for amending Article 4 Directions?

Background

- 2.1 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 Town and Country Planning (General Permitted Development) Order 1995 ("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.
- 2.2 The consultation set out how the Welsh Government wants to support LPAs in controlling the exercise of permitted development rights where this would harm local amenity or the proper planning of the area. The current procedures for making an Article 4 Direction, including the requirement for all Directions to be confirmed by the Welsh Ministers, was seen as an obstacle to greater use of Directions.
- 2.3 The consultation set out a proposed new approach to making a Direction, introducing two new types of Direction:
 - Directions with immediate effect – A Direction that would remove certain permitted development rights immediately without consultation where LPAs need to act quickly in order to deal with a threat to the amenity of an area. The Direction would last six months and would then expire unless confirmed by the LPA following consultation.
 - Directions without immediate effect – A Direction that would remove permitted development rights not covered by the aforementioned 'Direction with immediate effect'. A publicity and consultation period would apply before a LPA could confirm the Direction.
- 2.4 For both type of Direction, LPAs would undertake all stages in the preparation and confirmation of a Direction. The Welsh Ministers would no longer have a role in confirming Directions. The Welsh Ministers would however retain the power to make a Direction modifying or cancelling a Direction made by a LPA, in addition to making their own Directions.
- 2.5 Certain exclusions preventing the making of a Direction for specified Parts of the GPDO as currently is the case would remain.

Statistics

Sector	Yes	No	Other (with comments)	Did not answer	Total
Business	4	4	3	35	46
Government Agency/Other Public Sector	3	0	0	2	5
Professional Body/Interest Group	5	1	1	12	19
Local Planning Authority	14	0	0	1	15
Third Sector	1	0	0	4	5
Private Individuals	6	6	1	28	41
Total all respondents	33	11	5	82	131



Summary of comments

- 2.6 In total, 49 responses were received to question 16.
- 2.7 There was unanimous support from local planning authorities with the majority of other stakeholders who answered also supporting the proposals.
- 2.8 Simplifying and expediting the process was seen as a welcome change that would enable local planning authorities to respond quickly where there is a threat to the amenity of an area.
- 2.9 Caerphilly County Borough Council supported the proposals but questioned whether the absence of Welsh Government approval could erode the status of an Article 4 Direction in decision making. Ceredigion County Council expressed a similar view.

- 2.10 Conwy County Borough Council welcomed the proposals, noting the opportunity for LPAs control Part 31 (demolition) for buildings it considers to be at risk. They and several other LPAs also queried whether planning fees could be introduced where permitted development rights have been withdrawn.
- 2.11 Some local authorities also sought to see modern forms of communication being promoted, such as social media, as part of the consultation process.
- 2.12 Of those who disagreed (11 respondents), or neither agreed nor disagreed (5), few expanded upon their decision and provided comments. The key themes from those who did provide comments, include:
- Lack of opportunity for objections heard through an independent formal process
 - Article 4 Directions stifle development
 - There should be no restrictions on permitted development
- 2.13 One respondent (business) suggested there must be a requirement for local consultation before any Article 4 Direction comes into force and therefore objected to 'Directions with immediate effect'.

3. Government response

Principle

- 3.1 The Welsh Government welcomes the significant support for reforming the procedures associated with making an Article 4 Direction. Simplification of the procedures to make Directions may lead to wider usage and encourage LPAs to intervene where localised amenity is threatened by permitted development rights.
- 3.2 The new procedures support LPAs in controlling the exercise of the permitted development rights in specific, targeted locations within their administrative area where evidence suggests harm is being caused to local amenity, community wellbeing or the proper planning of the area, or where further use of specific permitted development rights would cause harm.
- 3.3 Inevitably there is a fine balance between the interests of stakeholders and it is not possible to satisfy the demands of every interested party when creating a national planning permission. The perception of impact will vary and some areas will have different levels of sensitivity to new development. The GPDO attempts to balance the need to provide the public and businesses with more freedom to undertake development against the need to ensure that the interests of neighbours and the wider environment are protected. Article 4 Directions are necessary to ensure LPAs are able to intervene where, on the basis of robust local evidence, the balance between providing greater freedoms and planning impacts could become distorted.
- 3.4 It should be noted that an Article 4 Direction does not prevent 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. A planning application also allows for mitigation of any planning impacts arising from the proposed development to be applied through negotiations with the developer or by planning condition where necessary. The application also does not attract a fee.

Removal of Welsh Government confirmation

- 3.5 The use of Article 4 Directions is currently constrained by the need to secure the Welsh Ministers' approval, which may be a deterrent for LPAs in using such powers. Removing this stage of the process places all aspects of making Directions within the remit of an LPA, expediting their confirmation and potentially encouraging their use where evidence suggests localised intervention is necessary.
- 3.6 LPAs are responsible for planning at a local level. Removing the need for Directions to be confirmed by the Welsh Ministers reflects this principle. The local evidence collected by LPAs will support the decision to make a direction.
- 3.7 An independent review of objections received through the consultation process is not necessary since LPAs must have due regard to any objections received as part of the consultation process.
- 3.8 Notwithstanding this, the Welsh Ministers retain a power to modify or cancel a direction which ultimately provides the necessary checks and balances to ensure Directions are used appropriately.

Application fees

- 3.9 LPA concerns regarding the lack of an application fee and the impact upon their resources are noted. However, at this time, the Welsh Government remains of the view that, in the interest of fairness, a planning application should not incur a fee where the proposed development would otherwise be permitted by the GPDO if the LPA had not withdrawn their rights to undertake the prescribed development.
- 3.10 The Welsh Government is aware of the ever-increasing demands on the development management system and introduced a range of reforms to planning application fees in 2020, including general increase of approximately 20%. The Welsh Government remains committed to carrying out further research into the costs associated with delivering a development management service, to ensure cost recovery of that service can be achieved.

Consultation

- 3.11 Concerns regarding the lack of public consultation associated with 'Directions with immediate effect' is noted, however, Article 4(1) Directions (which they replace) are also not subject to public consultation.
- 3.12 LPAs need to be able to respond quickly where the use of permitted development rights could harm local amenity or the proper planning of an area. Including a consultation process would delay the LPAs response and may result in irreversible harm, such as the demolition of a building of local importance that is not listed.

3.13 Notwithstanding this, it is acknowledged that the public should be involved in any decision where their rights are impacted. Hence any direction with immediate effect is time limited, expiring after six months unless confirmed by the LPA following public consultation. Furthermore, use of immediate Directions is limited to the following Parts of Schedule 2 to the GPDO:

- Part 1 (Development within the curtilage of a dwellinghouse);
- Part 2 (Minor Operations);
- Part 3 (Changes of Use), excluding development permitted by paragraphs (b)(i) and (c)(i) of Class I;
- Part 4 (Temporary Buildings and Uses);
- Part 31 (Demolition of Buildings);

Use of Social Media

3.14 Using digital tools such as websites, microsites, and social media reaches a wider spectrum of the community and allows people to share information. Digital tools should be considered as part of the consultation approach. However, it is important that they are not completely relied upon. A combination of digital tools and traditional means (local advertisement, site notice and direct notification) will provide the most effective way to engage with the whole community.

4. Next Steps

4.1 The new article 4 procedures will be introduced by the Town and Country Planning (General Permitted Development etc.) (Amendment) (Wales) Order 2022.

4.2 The Amendment Order will be subject to the relevant legislative procedures of the Senedd and will come into force in the Autumn. The Welsh Government will publicise the Amendment Order through the publication of a letter on the Welsh Government website and direct circulation to all local planning authorities.