



Llywodraeth Cymru
Welsh Government

GUIDANCE

Coronavirus (COVID-19): New temporary permitted development rights to support economic recovery

We are temporarily relaxing planning control for specified development through amendments to the Town and Country Planning (General Permitted Development) Order 1995.

First published: 6 April 2021

Last updated: 6 April 2021

Heads of Planning,
Local Planning Authorities in Wales

30/03/2021

Dear Colleagues

To support the reopening of businesses and their efforts to create safe environments for the public to feel confident to return to the high street,

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hospitality and tourism sectors, the Welsh Government are temporarily relaxing planning control for specified development through amendments to the Town and Country Planning (General Permitted Development) Order 1995 (the “GPDO”).

As was evidenced following the end of lockdown in spring 2020, once restrictions upon the movement of people are relaxed and businesses begin to reopen, there is a demonstrable need for measures to be put in place to create safe environments, both on private property and within the public realm. Some of these actions constitute development under section 55 of the Town and Country Planning Act 1990 but where the adverse planning impacts are not significant, we do not want the planning system to act as a barrier to recovery.

We are seeking to utilise the GPDO to provide greater flexibility for changes of use within town centres. The proposed temporary permitted development rights (PDRs) also provide a coordinated approach in respect of grant funding that has been made available for the private sector to adapt property and the public realm to meet the comprehensive social distancing changes required in town centres as a result of the COVID-19 pandemic.

The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (Wales) Order 2021 (“the Amendment Order”) comes into force on 30 April. The provisions contained within the Amendment Order are set out below.

Additional temporary use of land during the relevant period (Class A, Part 4A)

Class B of Part 4 (Temporary Buildings and Uses) of Schedule 2 to the GPDO already permits the temporary use of land (excluding buildings) for 28 days, subject to limitations and conditions. This is reduced to 14 days for specified uses.

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Class A (Additional temporary use of land during the relevant period) in the new Part 4A (Temporary Changes of Use) of Schedule 2 will provide an additional 28 days (in addition to the period granted under Class B of Part 4) for the temporary use of land. This is reduced to an additional 14 for the holding of a market or motor car and motorcycle racing including trials of speed, and practising for these activities.

The erection of moveable structures such as stalls or marquees on that land to facilitate the temporary use is also permitted.

Environmental and historic environment protections apply. Development is excluded where:

- The land is a building
- The land is within the curtilage of a building where there is a scheduled ancient monument within that curtilage;
- the land is within a National Park and the use of the land is for a car park that is not ancillary to a temporary use under this class;
- the use of the land is for a caravan site;
- the land is, or is within, a site of special scientific interest or is within the curtilage of a listed building and the use of the land is for:
 1. motor car and motorcycle racing including trials of speed or other motor sports, and practising for these activities;
 2. clay pigeon shooting;
 3. any war game;
- the use of the land is for the display of an advertisement

The PDR will have effect from 30 April 2021 to 3 January 2022.

Where the above PDRs do not facilitate a temporary use and therefore a planning application is required, LPAs should prioritise these applications. Authorities should seek to support to businesses and organisations, where the planning impacts are acceptable, to maximise their potential to operate over the

forthcoming spring/summer months as coronavirus COVID-19 control measures are relaxed. Short term permissions and conditions should be used to manage planning impacts which would be inappropriate on a permanent basis.

Holding of a market by or on behalf of a local authority (Class B, Part 4A)

To assist local authorities in their efforts to support businesses and provide safe environments for the public following the relaxation of the COVID-19 restrictions, Class B of Part 4A introduces new PDRs which permit the use of land (excluding land within a site of special scientific interest) for an unlimited period to provide a market held by, or on behalf of, a local authority. The erection of temporary moveable structures, such as stalls or awnings, to facilitate the use are permitted.

The PDR will have effect from 30 April 2021 to 3 January 2022.

Temporary uses – Town Centres (Classes C–E, Part 4A)

Prior to the pandemic, there was a growing need for diversifying retail and commercial centres so they can adapt to future retail trends to 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.

In the short term, the Welsh Government wants to facilitate temporary changes of use to enable businesses to trial alternative uses within town centres for a short period of time. This is intended to enable them to trial alternative uses and get initial feedback as to whether the start-up is likely to be viable without the expense and delay associated with submitting a planning application.

The permitted changes are as follows:

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Part 4A Existing Use (within town centres only) Permitted Change

Class C Use class A1 (shops)

- A2 (financial and professional services);
- A3 (food and drink);
- B1 (business);
- D1 (non-residential institutions);
- D2 (assembly and leisure).

Class D Use class A2 (financial and professional services)

- A1 (shops);
- A3 (food and drink);
- B1 (business);
- D1 (non-residential institutions);
- D2 (assembly and leisure).

Class E Use class A3 (food and drink)

- A1 (shops);
 - A2 (financial and professional services);
 - B1 (business);
 - D1 (non-residential institutions);
 - D2 (assembly and leisure).
-

The permitted changes only apply to buildings within a town centre as identified in a development plan. A detailed definition is provided within the interpretation of Part 4A. The whole planning unit must fall within the town centre boundary.

To protect residential amenity, for all 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

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process). These uses could potentially result in planning impacts that require further consideration through the submission of a planning application.

A notification procedure applies to assist with monitoring. LPAs are asked to retain a record of all notifications received in a format that can be shared with the Welsh Government at the end of the prescribed period.

All changes of use that take place 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.

If the businesses thrive during the six month trial period, planning permission can be sought and the local planning authority would have an evidence base from which to assess the impact of the alternative use. Where it has been demonstrated during the temporary period that the planning impacts are minimal, or where the impacts could be managed through conditions, sufficient weight should be given to the social, economic and broad regeneration benefits of retaining an alternative use.

Hospitality uses - outdoor servery provision (Class F, Part 4A)

As coronavirus controls are relaxed, the hospitality industry may be subject to limitations on how they trade, similar to those imposed in 2020. Only being able to operate outdoors (or with limited indoor space) means many hospitality businesses will rely on highway space to make their operations viable.

To regularise the lawfulness of creating a mixed use, 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

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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.

Permission for the use of the relevant part of the highway must have been obtained from the highway authority, and development undertaken in accordance with any conditions in order to constitute permitted development. 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.

The PDR will have effect from 30 April 2021 to 3 January 2022.

Also during this period, local planning authorities should maintain a flexible, supportive approach where businesses seek to utilise their curtilage for the provision of food and drink, including the erection of temporary structures. Local planning authorities should agree not to take enforcement action (in cases where development occurs, or where conditions may restrict the use of car parks/curtilage) during this period unless there is a significant planning impact.

Hospitality uses – awnings (Class D, Part 42)

The Welsh Government has provided funding through local authorities, for businesses and third sector partners to address the issues faced in town centres as a result of the COVID-19. This is intended to cover a number of interventions that will facilitate trading and enhance public safety and the look and feel of town centres to help restore confidence. This includes awnings over external areas where customers and members of the public congregate to be served food or drink or rest.

Class D of Part 42 therefore permits the erection of retractable awnings over the

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frontage of premises falling within Use Class A3 (food and drink) of the Schedule to the UCO to facilitate outdoor trading space for hospitality uses.

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

Conditions apply to limit the visual impact, requiring any awning to be fully retractable, with no means of support from the public highway and exclude any side or front panels extending towards the ground. It must also be fully retracted between 10 p.m. and 8 a.m.

Where an awning extends over a public highway, to mitigate any impacts upon highway safety, 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.

The Welsh Government will be monitoring the impact of these amendments with a view to making broader, permanent amendments to the GPDO next year. These changes will be subject to engagement with stakeholders and a public consultation.

Please contact planning.directorate@gov.wales should you have any queries.

Yours sincerely,

Neil Hemington
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