

SL(6)266 – The Town and Country Planning (General Permitted Development etc.) (Amendment) (Wales) Order 2022

Background and Purpose

The Town and Country Planning (General Permitted Development) Order 1995 (the “GPDO”), as amended, allows some development to be undertaken, within certain parameters, without the need to submit a planning application. This is known as “permitted development”.

The Town and Country Planning (General Permitted Development etc.) (Amendment) (Wales) Order 2022 (“the 2022 Order”) amends the GPDO. The effects of such amendments include:

- permitting local planning authorities and the Welsh Ministers to direct that any particular development permitted under article 3 of the GPDO is not to apply in relation to a specified area;
- introducing a new Schedule 2A. Schedule 2A sets out new procedures which must be followed in making, varying or withdrawing any direction that is made under article 4(1) of the GPDO. In addition, Schedule 2A introduces two types of direction that can be made: a direction with immediate effect and a direction without immediate effect;
- removing the requirement for the Welsh Ministers to confirm an article 4 direction, instead requiring, in most cases, the local planning authority to give notice to the Welsh Ministers following confirmation of a direction.
- amending Part 3 (changes of use) of Schedule 2 to the GPDO by inserting two new classes, Class I and Class J.
 - o Class I introduces a number of new permitted development rights for unlimited changes of use, including mixed uses, between use Class C3 (Dwellings, used as sole or main residences); use Class C5 (Dwellings, used otherwise than as sole or main residences) and use Class C6 (Short-term lets). The permitted development is subject to limitations.
 - o Class J introduces a number of new permitted development rights from use as a betting office to use within Class A1 (shops); or Class A2 (financial and professional services); or mixed use of either Class A1 or Class A2, plus a single flat. Class J also permits a change of use from a mixed use as a betting office and a single flat to use within Class A1 or Class A2, or a mixed use of either Class A1 or Class A2, plus a single flat, and to use as a betting office. The permitted development is subject to limitations.

The 2022 Order also amends the Town and Country Planning (Compensation) (Wales) (No.2)



Regulations 2014 (SI 2014/2693 (W.268)) (“the 2014 Regulations”) by adding a new class of development into the list of permitted development rights for which compensation on withdrawal of the right is limited in various ways provided in the 2014 Regulations. Minor amendments are also made to the 2014 Regulations.

Procedure

Negative.

The Order was made by the Welsh Ministers before it was laid before the Senedd. The Senedd can annul the Order within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date it was laid before the Senedd.

Technical Scrutiny

The following two points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Article 2(4) inserts a new Schedule 2A into the GPDO. Paragraph 1(12) of the new Schedule 2A states that a local planning authority may, by making a subsequent direction, withdraw any direction made by it under Article 4(1) of the GPDO. Paragraph 1(14) of the new Schedule 2A goes on to state that where the local planning authority makes a direction under paragraph 1(12), paragraphs 1(1) to 1(11) of Schedule 2A will apply (subject to an exception not directly relevant to this reporting point).

Paragraphs 1(1) to 1(11) of Schedule 2A set out various requirements that must be followed when a direction is made under Article 4(1) of the GPDO. It is not clear which of these requirements must still be followed when a direction is made under paragraph 1(12) of Schedule 2A. The wording of paragraph 1(14) indicates that all of the requirements in paragraphs 1(1) to 1(11) will apply, but this does not appear to be viable in practice. For example, paragraph 1(4)(c) of the new Schedule 2A requires that a notice which is given of a direction must state that the direction is given under Article 4(1), but this would not be the case if the notice relates to a direction made under paragraph 1(12). The Welsh Government is therefore asked to explain how applying paragraphs 1(1) to 1(11) of the new Schedule 2A to directions made under paragraph 1(12) will work in practice.

2. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts

In article 2(2), the opening words in the English text state “**For** article 4-” but the corresponding Welsh text is translated as meaning “**In** article 4”. “For” is normally used when describing which provision or words are to be substituted. However, it is actually describing the location of where the amendments will be inserted and should be “In”.



Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Welsh Government response

A Welsh Government response is required.

Committee Consideration

The Committee considered the instrument at its meeting on 10 October 2022 and reports to the Senedd in line with the reporting points above.



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee