
WELSH STATUTORY INSTRUMENTS

2021 No. 386 (W. 123)

TOWN AND COUNTRY PLANNING, WALES

The Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (Wales) Order 2021

<i>Made</i>	- - - -	<i>23 March 2021</i>
<i>Laid before Senedd Cymru</i>		<i>24 March 2021</i>
<i>Coming into force</i>	- -	<i>30 April 2021</i>

The Welsh Ministers make the following Order in exercise of the powers conferred by sections 59, 60(1), 61(1) and 333(4B) and (7) of the Town and Country Planning Act 1990(1) and now vested in them(2).

Title, commencement and application

1.—(1) The title of this Order is the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (Wales) Order 2021 and it comes into force on 30 April 2021.

(2) This Order applies in relation to Wales.

Amendment of the Town and Country Planning (General Permitted Development) Order 1995

2. The Town and Country Planning (General Permitted Development) Order 1995(3) is amended as set out in articles 3 and 4.

Insertion of new Part 4A in Schedule 2

3. After Part 4 (temporary buildings and uses) of Schedule 2 insert—

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- (1) 1990 c. 8. Section 59(4) was inserted by section 55 of, and paragraph 5 of Schedule 7 to, the Planning (Wales) Act 2015 (anaw 4) (“the 2015 Act”). Section 333(4B) was substituted by section 55, of and paragraph 6(3) of Schedule 7 to, the 2015 Act. There are other amendments which are not relevant to this instrument.
- (2) The functions of the Secretary of State under sections 59, 60(1), 61(1) and 333(7) were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672): see the entry in Schedule 1 for the Town and Country Planning Act 1990 as substituted by article 4 of, and Schedule 3 to, the National Assembly for Wales (Transfer of Functions) Order 2000 (S.I. 2000/253). By virtue of section 162 of, and paragraphs 30 and 32 of Schedule 11 to, the Government of Wales Act 2006 (c. 32) the functions of the National Assembly for Wales were transferred to the Welsh Ministers.
- (3) S.I. 1995/418. Part 42 was inserted by S.I. 2014/592 (W. 69). There are other amendments but none are relevant to this instrument.

“PART 4A

TEMPORARY CHANGES OF USE

Class A

Additional temporary use of land during the relevant period

Permitted Development

A. The use of any land for any purposes for not more than 28 days in total during the relevant period, of which no more than 14 days in total may be for the purposes of—

- (a) **the holding of a market;**
- (b) **motor car and motorcycle racing including trials of speed, and practising for these activities,**

and the provision on the land of any moveable structure for the purposes of the permitted use.

In calculating the number of days during which development is permitted, no account is to be taken of any day during which development is permitted under Class B of Part 4, or Class B of Part 4A, of this Schedule.

Development not permitted

A.1 Development is not permitted by Class A if—

- (a) the land in question is a building;
- (b) the land is within the curtilage of a building and there is a scheduled monument within that curtilage;
- (c) 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 Class A of this part;
- (d) the use of the land is for a caravan site;
- (e) 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—
 - (i) motor car and motorcycle racing including trials of speed or other motor sports, and practising for these activities;
 - (ii) clay pigeon shooting;
 - (iii) any war game;
- (f) the use of the land is for the display of an advertisement.

Interpretation of Class A

A.2 For the purposes of Class A—

“the relevant period” means the period beginning on 30 April 2021 and ending on 3 January 2022;

“war game” means an enacted, mock or imaginary battle conducted with weapons which are designed not to injure (including smoke bombs, or guns or grenades which fire or spray paint or are otherwise used to mark other participants), but excludes military activities or training exercises organised by or with the authority of the Secretary of State for Defence.

Class B

Holding of a market by or on behalf of a local authority

Permitted Development

B. The use of any land for the purposes of holding a market by or on behalf of a local authority during the relevant period and the provision on the land of any moveable structure for the permitted use.

Development not permitted

B.1 Development is not permitted by Class B if the land is, or is within, a site of special scientific interest.

Interpretation of Class B

B.2 For the purposes of Class B “the relevant period” means the period beginning on 30 April 2021 and ending on 3 January 2022.

Class C

Temporary uses – Class A1 buildings in town centres

Permitted Development

C. Development consisting of a change of use of a building—

- (a) **during the relevant period, from a use falling within Class A1 (shops) of Schedule 1 to the Use Classes Order to a use falling within the following classes of Schedule 1 to the Use Classes Order—**
 - (i) **A2 (financial and professional services);**
 - (ii) **A3 (food and drink);**
 - (iii) **B1 (business);**
 - (iv) **D1 (non-residential institutions);**
 - (v) **D2 (assembly and leisure).**
- (b) **during or at the end of the six month period beginning with the date on which the development began, from the new use to the original use;**
- (c) **at the end of the relevant period, from the new use to the original use.**

Development not permitted

C.1 Development is not permitted by Class C if—

- (a) the whole of the building does not fall within a town centre;
- (b) the proposed A3 use is the sale of hot food for consumption off the premises;
- (c) the proposed use is Class B1(c) of Schedule 1 to the Use Classes Order.

Conditions

C.2 Development is permitted by Class C subject to the following conditions—

- (a) the developer must, as soon as reasonably practicable, notify the local planning authority of the development;

- (b) the change of use may last no more than six months beginning with the date on which the development began;
- (c) the change of use must end on or before the end of the relevant period.

Interpretation of Class C

C.3 For the purposes of Class C “the relevant period” means the period beginning on 30 April 2021 and ending on 29 April 2022.

Class D

Temporary uses – Class A2 buildings in town centres

Permitted Development

D. Development consisting of a change of use of a building—

- (a) **during the relevant period, from a use falling within Class A2 (financial and professional services) of Schedule 1 to the Use Classes Order to a use falling within the following classes of Schedule 1 to the Use Classes Order—**
 - (i) **A1 (shops);**
 - (ii) **A3 (food and drink);**
 - (iii) **B1 (business);**
 - (iv) **D1 (non-residential institutions);**
 - (v) **D2 (assembly and leisure);**
- (b) **during or at the end of the six month period beginning with the date on which the development began, from the new use the original use;**
- (c) **at the end of the relevant period, from the new use to the original use.**

Development not permitted

D.1 Development is not permitted by Class D if—

- (a) the whole of the building does not fall within a town centre;
- (b) the proposed use is sale of hot food for consumption off the premises;
- (c) the proposed use is Class B1(c) of Schedule 1 to the Use Classes Order.

Conditions

D.2 Development is permitted by Class D subject to the following conditions—

- (a) the developer must, as soon as reasonably practicable, notify the local planning authority of the development;
- (b) the change of use may last no more than six months beginning with the date on which the development began;
- (c) the change of use must end on or before the end of the relevant period.

Interpretation of Class D

D.3 For the purposes of Class D “the relevant period” means the period beginning on 30 April 2021 and ending on 29 April 2022.

Class E

Temporary uses – Class A3 buildings in town centres

Permitted Development

E. Development consisting of a change of use of a building—

- (a) **during the relevant period, from a use falling within Class A3 (food and drink) of Schedule 1 to the Use Classes Order to a use falling within the following classes of Schedule 1 to the Use Classes Order—**
 - (i) **A1 (shops);**
 - (ii) **A2 (financial and professional services);**
 - (iii) **B1 (business);**
 - (iv) **D1 (non-residential institutions);**
 - (v) **D2 (assembly and leisure);**
- (b) **during or at the end of the six month period beginning with the date on which the development began, from the new use to the original use;**
- (c) **at the end of the relevant period, from the new use to the original use.**

Development not permitted

E.1 Development is not permitted by Class E if—

- (a) the whole of the building does not fall within a town centre;
- (b) the proposed use falls within Class B1(c) of Schedule 1 to the Use Classes Order.

Conditions

E.2 Development is permitted by Class E subject to the following conditions—

- (a) the developer must, as soon as reasonably practicable, notify the local planning authority of the development;
- (b) the change of use may last no more than six months beginning with the date on which the development began;
- (c) the change of use must end on or before the end of the relevant period.

Interpretation of Class E

E.3 For the purposes of Class E “the relevant period” means the period beginning on 30 April 2021 and ending on 29 April 2022.

Class F

Hospitality uses - outdoor servery provision

Permitted Development

F. The use, during the relevant period, of part of a relevant highway adjacent to premises falling within Class A3 (food and drink) of Schedule 1 to the Use Classes Order for the purposes of placing removable furniture, used for the purposes of selling or serving food or drink supplied from those premises or consuming food or drink supplied from those premises.

Conditions

F.1 Development is permitted by Class F subject to the following conditions—

- (a) permission for the use of the part of the relevant highway must have been obtained from the relevant council under section 115E of the Highways Act 1980⁽⁴⁾;
- (b) the use must be in accordance with any conditions imposed by the relevant council under section 115F of the Highways Act 1980;
- (c) the removable furniture must not be used between 10 pm and 8 am.

Interpretation of Class F

F.2 For the purposes of Class F—

“furniture” means—

- (a) counters or stalls for selling or serving food or drink,
- (b) tables, counters or shelves on which food or drink can be placed,
- (c) chairs, benches or other forms of seating, and
- (d) umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink;

“relevant highway” means—

- (a) a highway to which Part 7A of the Highways Act 1980 applies, and
- (b) which is not over Crown land or maintained by Network Rail;

“the relevant period” means the period beginning on 30 April 2021 and ending on 3 January 2022.

Interpretation of Part 4A

G. For the purposes of Part 4A—

“within a town centre” means within an area identified in a development plan as a—

- (a) city centre shopping area;
- (b) central shopping area;
- (c) central shopping centre;
- (d) district centre;
- (e) district, local, village or neighbourhood centre;
- (f) district shopping centre;
- (g) local centre;
- (h) principal town centre boundary;
- (i) shopping area;
- (j) shopping zone;
- (k) Swansea central area;
- (l) town and district retail centre;
- (m) town centre;
- (n) town centre area;

(4) 1980 c. 66. Section 115K was inserted by section 20 of, and paragraph 1 of Schedule 5 to the Local Government (Miscellaneous Provisions) Act 1982 (c. 30). There are other amendments which are not relevant to this instrument.

- (o) town centre boundary;
- (p) town/district centre boundary;
- (q) retail area;
- (r) retail and commercial hierarchy; or
- (s) retail centre;

“development plan” has the same meaning as in section 336 of the Act.”

Amendment of Part 42 of Schedule 2

4.—(1) In the heading to Part 42 (shops, financial or professional services establishments) of Schedule 2, after “Shops,” insert “Food and Drink Establishments and”.

(2) At the end of Part 42 of Schedule 2 insert—

“Class D

Hospitality uses – awnings

Permitted Development

D. The installation of an awning over the frontage of premises falling within Class A3 (food and drink) of Schedule 1 to the Use Classes Order.

Development not permitted

D.1 Development is not permitted by Class D if—

- (a) the land is within the curtilage of a listed building;
- (b) the land is located on article 1(5) land or within a World Heritage Site;
- (c) an awning would constitute an advertisement.

Conditions

D.2 Development is permitted by Class D subject to the following conditions—

- (a) the awning must be fully retractable;
- (b) the awning must be fully retracted between 10 pm and 8 am;
- (c) the awning must not have—
 - (i) any means of support from the public highway;
 - (ii) any side or front panels extending towards the ground;
- (d) where an awning extends over a highway, permission must have been obtained from the relevant council under section 115E of the Highways Act 1980 for—
 - (i) the installation of an awning;
 - (ii) any connected use of the highway under Class F of Part 4A of this Schedule;
- (e) where permission has been given under section 115E for any connected use of the highway under Class F of Part 4A of this Schedule, an awning must not project beyond the part of the highway for which permission has been given for that connected use;
- (f) the erection of the awning must be completed within the relevant period.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Interpretation of Class D

D.3 For the purposes of Class D “the relevant period” means the period beginning on 30 April 2021 and ending on 29 April 2022.”

23 March 2021

Julie James
Minister for Housing and Local Government,
one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Town and Country Planning (General Permitted Development) Order 1995 (“the GPDO”).

Article 3 of, and Schedule 2 to, the GPDO confer permitted development rights in respect of certain development. Where such rights are conferred, an application for planning permission is not required.

Article 3 of this Order amends Schedule 2 to the GPDO by inserting a new Part 4A (temporary changes of use) to permit certain development in Wales for limited periods. There are 6 new classes of permitted development in Part 4A.

Class A 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 on 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.

Class B permits the use of land for the holding of a market by or on behalf of a local authority in the period beginning on 30 April 2021 and ending on 3 January 2022.

Class C, Class D and Class E permit a temporary change of use for town centre buildings within use classes A1, A2, and A3 of the Town and Country Planning (Use Classes) Order 1987 (“the Use Classes Order”) to other specified use classes. The change of use is limited to 6 months and must cease on or before 29 April 2022. Developers are required to notify the local planning authority of the development as soon as reasonably practicable. Change of use back to the original use is also permitted and must take place before the end of 29 April 2022.

Class F permits the change of use, during the period beginning on 30 April 2021 and ending on 3 January 2022, of part of a highway adjacent to premises falling within the use Class 3A of the Use Classes Order, for the purposes of placing removable chairs, tables and other removable furniture for purposes of the selling, serving or consumption of food and drink supplied from that premises. Permission must be obtained from the relevant council and the furniture may not be used between 10 pm and 8 am.

The development permitted under each class is subject to conditions and limitations that are also set out in the new Part 4A.

Article 4 of this Order amends Part 42 of Schedule 2 to the GPDO by inserting a new class (Class D) of permitted development in Wales for a limited period.

The new Class D allows for the installation of a retractable awning over the front of premises in use Class A3 (food and drink) of the Use Classes Order. The awning cannot be an advertisement and must be retracted between 10 pm and 8 am. Where an awning will extend over a highway, permission must be obtained from the relevant council. The installation of the awning must be completed by the end of 29 April 2022.

The development permitted under this class is subject to other conditions and limitations that are also set out in the new Class D of Part 42.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with this Order. A copy can be obtained from the Welsh Government at Cathays Park, Cardiff, CF10 3NQ.