

SL(5)538 - The Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (Wales) Order 2020

Background and Purpose

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 2 of this Order amends Schedule 2 to the GPDO. It inserts a new Part 3A (Temporary Buildings and Changes of Use for Public Health Emergency Purposes) to permit certain development in Wales 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.

The development permitted is the change of use of a building or land to Class C2 (Residential institutions) or Class D1 (Non-residential institutions) of the Town and Country Planning (Use Classes) Order 1987, and the provision of buildings or other structures.

The permitted development is subject to the conditions and limitations which are set out in Part 3A.

Procedure

Negative.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly

The 21 day rule under the Statutory Instruments Act 1946 (incorporated in Schedule 10 of the Government of Wales Act 2006) provides that instruments should be laid 21 days before they come into force. This enables Members to seek to annul such instruments before they have effect, as confusion can be caused if legislation is annulled after it has been implemented.

The Order was laid on 14 April, having already come into force on 10 April. In this case, the Welsh Government considers that the circumstances justify a breach of the 21 day rule. We note the letter sent by Rebecca Evans, Minister for Finance and Trefnydd to the Llywydd, dated 14 April 2020. This states:

The Order is required to come into force as soon as possible to enable health service bodies to undertake development in accordance with Part 3A. This would enable for instance the setting up of



temporary hospitals and testing stations on land not owned/maintained by a local authority or the Crown, such as within private sports arenas.

If the Order does not come into force health service bodies will be required to apply for planning permission to carry out such development. The Order seeks to avoid the delay that the making and processing of such applications would inevitably involve. In view of the circumstances surrounding the COVID-19 disease which falls in the category of a “public health emergency” for the purposes of the Order and in particular its fast-moving nature, not adhering to the 21-day convention is thought necessary and justifiable in this case.

Implications arising from exiting the European Union

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

Government Response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

29 April 2020



Cynulliad Cenedlaethol Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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National Assembly for Wales

Legislation, Justice and Constitution Committee