

Committee	COMMUNITIES SCRUTINY COMMITTEE
Date	9 March 2023
Title	Introducing Article 4 Direction to manage the use of second homes and short-term holiday accommodation
Cabinet Member	Councillor Dafydd Meurig
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Purpose	To scrutinise the evidence base, the area options and the favoured option for introducing the Article 4 Direction in the Gwynedd Local Planning Authority Area to enable the management of the transfer in use from residential dwellings to holiday use (second homes and holiday accommodation).

1. BACKGROUND

- 1.1 In the report to the Communities Scrutiny Committee on 27 October 2022, an overview was given of the national changes to legislation and planning policy, in relation to the management of second homes and holiday accommodation, and how the Council proposed to respond to those changes. It was agreed that a further report would be submitted to the Committee at its meeting on 9 March 2023, that included the evidence base and the potential area options for the Article 4 direction.
- 1.2 Amendments to planning legislation that has been in force since 20 October, 2022 enable Local Planning Authorities to respond to the challenges associated with second homes and holiday accommodation in a way that was not previously possible.
- 1.3 The changes to planning legislation include:-
- Amending the Town and Country Planning (Use Classes) Order 1987¹ to create three new use classes for Primary Residences (C3), Second Homes (C5) and Short-term Holiday Lets (C6);
 - Amending the Town and Country Planning (Permitted General Development) Order 1995 to allow unrestricted changes between the three new use classes (Primary Residences, Second Homes and Short-term Holiday Lets). Namely, no planning permission is required to move from one of the use classes to another;
 - Amend Planning Policy Wales to make it clear, when relevant, that the number of second homes and short-term holiday lets in a local area must be considered when considering the housing requirements and policies in Local Development Plans (LDPs).

¹[Town and Country Planning \(Use Classes\) Order 1987 \(as amended\)](#)

- 1.4 As a result of these changes, dwelling houses depending on the use made of them when the legislative changes were announced, will be defined in accordance with the new relevant use class category. For example, a dwelling house that is the primary residence for an individual will be defined as C3 use (Primary Residence), a property used as a second home will be defined as C5 use (Second Home) and a property used as short-term holiday let will be defined as C6 use (Holiday Let). The new use classes and their definitions can be viewed in Appendix 2.
- 1.5 Owners will have the right to change the use of a dwelling house from one of the new use classes (C3, C5 and C6) to another use class, without having to gain planning permission, as the amendment to planning legislation will allow this (permitted development right). New planning applications for main residences/second homes/short-term holiday lets will receive planning permission for the relevant use class.
- 1.6 Should it be deemed appropriate, in order to restrict the change of use between the new use classes, the Local Planning Authority has the power to introduce what is called an **Article 4 Direction** for a specific area. An Article 4 Direction (depending on its content and scope) would remove the rights to change between the use classes without planning permission. It is possible to implement the Article 4 Direction for a specific area (no definition noted in legislation), provided that the process of presenting and receiving approval to the proposal have followed the correct procedures set out in the relevant legislation.
- 1.7 It is emphasised that issuing an Article 4 Direction does not prevent development but rather, it means that planning permission must be sought from the Local Planning Authority for the proposal. By enforcing the need to receive planning permission, it means that consideration is needed on the impacts of the development in accordance with the local and national planning policy context.

2. PURPOSE

- 2.1 In accordance with what was agreed following a meeting of the Communities Scrutiny Committee on 27 October 2022, this paper is submitted for the Committee to scrutinise the evidence-base, the potential area options and the favoured option (see Appendix 1), in relation to introducing the Article 4 Direction in Gwynedd. In essence, the main purpose of introducing and implementing the Article 4 Direction would remove permitted development rights for the change the use of a residential dwelling (C3 use) into holiday use (C5 and/or C6 use class), and would mean that planning consent would be required to use the residential dwelling as a second home/holiday accommodation in the future.
- 2.2 Together with presenting an overview of the justification for the proposed direction, an overview is also submitted of the steps involved in the process of introducing the Article 4 Direction and the associated timetable.

3. PROPOSAL

3.1 The principle of the Article 4 Direction

3.1.1 Over the years, Cyngor Gwynedd has campaigned and brought pressure on the Government to get to grips with the increase in holiday home ownership across the county and the associated side-effects. During 2020 research was prepared by the Joint Planning Policy Service, 'Managing the use of dwellings as holiday homes'. The research was approved by the Council's Cabinet and was forwarded for the attention of the Welsh Government.

3.1.2 In response to this work together with calls from other groups/organisations the Government was motivated to respond to the crisis by implementing/consider implementing a range of appropriate control measures for holiday accommodation and second homes.

3.1.3 One of the control measures implemented is the change to planning legislation, with this change placing the direction of implementation in the hands of Local Planning Authorities.

3.2 Justifying the introduction of Article 4 Direction

3.2.1 The attached paper (Appendix 1) highlights the relevant considerations associated with considering the propriety of implementing the Article 4 Direction for the Gwynedd Local Planning Authority area, but also looking at this within a county context.

3.2.2 The paper is split into 7 sections. This is a brief overview of paper's contents:-

Part 1: Presentation

3.2.3 An overview is given of the legislative changes and the new associated powers. Furthermore, an overview is included of the relevant context in terms of the propriety of issuing the Article 4 Direction, including giving consideration to the propriety of what is sought to be achieved via intervention in accordance with legislation, strategies and national and local planning guidance.

Part 2: Provision and location of holiday accommodation and second homes

3.2.4 To get an understanding of the seriousness of the matter and the propriety of implementing the Article 4 Direction, it is considered appropriate that an assessment is undertaken of the number of houses used as holiday accommodation (second homes and holiday accommodation) in Gwynedd. As there is no established regulatory procedure, finding accurate and full data in relation to numbers can be difficult. We depend on Council Tax information as this is the most reliable data source, however it is emphasised that this data is based on the users of the residential unit applying for the correct council tax/non-domestic business tax rates for their property.

3.2.5 The following table conveys the Council Tax data for those units that pay the second homes premium (Class B property where no one resides there permanently and where

the property is furnished) or paying non-domestic business tax rates as a holiday let in Gwynedd for a period of 4 years:-

	Number of Domestic Properties	Number of second homes (excluding units with an occupancy restriction)	Number of Holiday Accommodation	Combined number
July 2018	61,679	5,100	1,193	6293
May 2019	61,616	5,013	1,658	6671
June 2019	61,591	4,891	1,681	6572
October 2019	61,562	4,920	1,764	6684
February 2020	61,617	4,912	1,838	6752
June 2020	61,645	4,873	1,976	6849
November 2020	61,946	4,933	2,119	7052
February 2021	61,534	4,768	2,261	7029
July 2021	61,463	4,729	2,369	7098
October 2021	62,312	4,713	2,448	7161
February 2022	61,296	4,627	2,612	7239
July 2022	61,335	4,840	2,719	7559
	-344	-260	+1,526	+1266

3.2.6 Please note in the above table there is a reduction of 260 houses that used to pay the council tax premium between July 2018 and July 2022. During the same period the number of units that now pay the Non-domestic Business Rate has increased +1,526. Bearing in mind that there should be an additional 938 residential units (built during the period in the Gwynedd Local Planning Authority area and the Eryri National Park), it appears that the growth in the number of holiday accommodation is attributed to the transfer in use from domestic to non-domestic (Business Rate). Due to the existing system the financial benefits of transferring to pay the non-domestic business rate is a motivation for this transfer in use.

3.2.7 It is emphasised that Council Tax figures are a conservative estimate of the actual provision with other sources of information (Gwynedd Bed Stock Survey (2019) and 'Transparent Data', Visit Wales (2022)) estimating that there are between 3,700 and 4,500 short term holiday lets in Gwynedd during peak times.

3.2.8 As expected, the highest provision of holiday homes are available in the traditional areas of the Llŷn and Meirionnydd coast. However, recently it appears that there is an increase in the less traditional/urban locations. For example, in the Bangor area (including the Pentir Community Council area), back in July 2018 the rate of housing stock in holiday use (holiday accommodation or second homes) was 0.97%. By July 2022 the figure had increased to a rate of 2.38%. Although the percentage of housing stock in holiday use continues to be lower compared to other areas, this is a percentage increase of 141% over a period of four years. This is firm evidence that the number of holiday homes is generally increasing and is also spreading to less traditional areas of the county.

Part 3: Impact Assessment - Qualitative information

- 3.2.9 In section 3 of the paper an analysis of other relevant research in this field (second homes and holiday accommodation) is presented, as well as reference to the evidence used in that work to assess the impact.
- 3.2.10 Generally when considering and assessing the impact of holiday accommodation and second homes, evident themes permeate through the relevant research, namely:-
- The impact on the housing market
 - Impact on community facilities
 - Impact on the Welsh language
- 3.2.11 The analysis of this work highlights that the provision of holiday accommodation and second homes within communities impact the factors referred to above, however, it is noted that it is not possible to state without doubt that the negative side-effects are restricted to being associated with the provision of holiday homes only, with the other factors also having an influence.

Part 4: Assessing the Impact - Primary/quantitative information

- 3.2.12 This section presents a primary analysis of the impact on communities at the expense of having a number or high density of holiday homes.
- 3.2.13 Inevitably the demand for holiday accommodation affects the ability of local people on low wages to buy homes in popular holiday destinations. The median house price in Gwynedd (2021) was £175,000, with an average income of £26,315, the income to house price affordability ratio in the county is 6.7:1 (increased from 5.9:1 in September 2019). This means that on average 65.5% of the Gwynedd population have been priced out of the housing market.
- 3.2.14 This statistic increases significantly in the wards where there are a higher number of holiday homes. For example, in the Abersoch ward where 54.08% of the housing stock is in holiday use (holiday accommodation or second homes), the average median price for a house is £482,500. With the average household income at £36,086, the house prices to affordability ratio is far beyond double the county average at 13.4:1, this means that 96.1% of local people have been priced out of the market.
- 3.2.15 Together with impacting on house prices and affordability the paper discusses the impact on the provision of social facilities that satisfy the needs of the local population together with the impact on the Welsh language.

Part 5: Intervention Options

- 3.2.16 Previously (prior to the changes in planning legislation), the ability of Local Authorities to control the housing market, i.e. who occupy the houses and the use made of them was restricted to new housing. The new measures introduced via the changes to planning legislation gives the power to issue the Article 4 Direction for a specific area and the ability to control the use made of residential dwellings for holiday purposes.

3.2.17 Alongside considering the propriety of implementing the Article 4 Direction, it is also appropriate to consider all the other control measures that can be implemented to get better control of the use of housing as holiday accommodation and second homes.

3.2.18 The other control measures that may currently be implemented or are being considered include:-

- Intervention via local planning policy; for example, to limit the use of new housing to be principal residences;
- Financial intervention: increase the second homes premium and amend the criteria to be eligible to pay the non-domestic business rate;
- Licensing; Welsh Government undertake a consultation on the principle to implement the mandatory licensing procedure for holiday accommodation providers.

3.2.19 It is noted that a package of control measures need to be implemented to ensure the success of the broader objective sought to be achieved.

Part 6: Area Options for an Article 4 Direction

3.2.20 The evidence submitted in the paper highlights the need to implement and present the Article 4 Direction, to try to reverse the side-effects of holiday homes on communities and to ensure fairness and opportunities for Gwynedd residents.

3.2.21 Consideration has been given to a series of options in terms of the area where the Article 4 Direction should be implemented, namely:-

- Option 1: Dwyfor (Government pilot area);
- Option 2: Community/Town/City Council areas where the current provision of holiday homes is greater than 15% of the housing stock;
- Option 3: Vulnerable Areas (areas under threat);
- Option 4: The whole of Gwynedd (Gwynedd Local Planning Authority Area)

3.2.22 In considering these options a detailed assessment of the relevant advantages and disadvantages has been undertaken. Furthermore, consideration will be given to how intervention will have a positive impact on Gwynedd communities.

Part 7: Conclusions

3.2.23 Since implementing the Article 4 Direction in this manner is unprecedented, it is not possible to anticipate or measure the implications that may derive from its implementation. It is anticipated that the potential impacts include:-

- Impact on the value of property on the open market;
- Leading to an increase in the number of holiday homes in areas that are not subject to the same protection.

3.2.24 In order to seek to have control on the use made of residential housing and through this ensure there is appropriate provision of housing available to satisfy local needs, it is considered appropriate that the housing stock of the entire Local Planning Authority Area is protected by the introduction of the Article 4 Direction. By introducing the Article 4

Direction for the entire area this ensures that the amenities of the county's residents are protected. It also ensures that the vision and objectives of a range of relevant strategies and policies, are considered when assessing the propriety of the proposed development (in accordance with the local planning policy guidance). Furthermore, it is noted that this approach to issue the Article 4 Direction will ensure that there is no doubt regarding the geographical area where the intervention will be implemented, and will ensure that the residents of the entire county are subject to the same intervention/protection.

- 3.2.25 Following the analysis of the options discussed in Section 6 of the paper, it is noted that the favoured option in terms of presenting the Article 4 Direction is **Option 4: The whole of Gwynedd (Gwynedd Local Planning Authority Area)**. By operating in this manner, it is hoped that it will protect the vulnerable communities of Gwynedd in terms of their social, economic and cultural sustainability.

3.3 The Scope of the Article 4 Direction

- 3.3.1 It is possible to tailor the scope of the Article 4 Direction to address what it seeks to achieve. With the aim of seeking to ensure that residential dwellings are protected for this purpose, it is concluded that the permitted development rights should be removed for the change of use of a residential dwelling (C3 use) into holiday use - be that a C5 or C6 use class. In the same manner, to facilitate the ability for second homes and short-term holiday lets (that have not been restricted via a planning right) to transfer back into residential use, it is not considered appropriate to interfere with the ability to do this by presenting the Article 4 Direction, therefore the unrestricted transfer from C5/C6 use to C3 use can continue. It is noted that the legislation allows for mixed uses of these use classes, for example change of use of being a pure C3 use to a mixed C3/C6 use. Following the above mentioned principle to protect the residential housing stock, it is proposed to limit mixed use that would lead to the loss of pure principal residence uses. It is possible to examine the scope and path of the permitted development rights that are proposed to be removed by the introduction of the Article 4 Direction in the last section of the Justification Report (Appendix 1).

4.0 NEXT STEPS

- 4.1 It is a requirement to follow the procedures set out in legislation when presenting and implementing the Article 4 Direction. The procedure is outlined in the Town and Country Planning (Permitted General Development) Act 2022, as amended. In accordance with the latest amendment to the relevant legislation, it is possible to issue two types of Article 4 Direction, namely:-
- A Direction that comes into force directly which means that the Article 4 Direction comes into force prior to a public consultation.
 - A Direction that does not come into force directly which means that a public consultation is held before the Article 4 Direction comes into force.
- 4.2 It is considered that advantages and disadvantages are associated with both paths. It is emphasised that the right to compensation that would be payable in the context of the Article 4 Direction that comes into force directly, is a significant risk for the Authority. In accordance with the need to avoid having to pay compensation, it is considered that the option of implementing the Article 4 Direction that does not come into force directly

would be appropriate to protect the Council's interests. This will include a 12-month notice prior to when the Article 4 Direction comes into force that will remove the right to compensation.

4.3 The following table gives a brief overview of the essential steps required together with setting a rough timetable to deliver these steps:-

Step	Explanation	Timetable
Approval to issue a notice	Report on the intention to a meeting of the Cyngor Gwynedd Cabinet to approve issuing a notice of the proposal and undertake the required publicity / consultation.	April/May 2023
Issue a notice	<ul style="list-style-type: none"> • Public notice; • Site notice; • Notify persons affected; • Note a period of 21 days (or more) to present observations in relation to the Direction. 	May to July 2023
Approval of the Implementation of the Article 4 Direction	<ul style="list-style-type: none"> • 12 months after issuing the notice; • Consider all the observations received. 	April/May 2024

4.4 As noted above, the procedure in terms of approving and implementing the Article 4 Direction has been set out in legislation. It is emphasised that the system in terms of receiving approval is relevant to the Gwynedd Local Planning Authority Area only. However, regular discussions take place with officers from the Eryri National Park Authority to ensure that there is integration between the expectations and the timetable of both Local Planning Authorities in terms of implementing the Article 4 Direction. The paper considers the impact of holiday homes and the operational options for the whole of Gwynedd, it will be a matter for the Eryri National Park to determine the path they wish to follow and receive an approval to the proposal.

4.5 In addition to undertaking the essential steps noted in the above table it is also intended to hold awareness raising sessions with members when the notice/observation period on the proposal is underway.

4.6 The Council has requested specialist legal counsel on the proposal, including an opinion on the prepared justification paper together with a view on the process to receive approval, issuing the notice and considering the observations received. It should be emphasised that the prescribed implementation timetable highlighted in the above table is based on the receipt of positive feedback on the legal counsel.

4.7 Together with the process of getting legal guidance, there is also associated preparatory work proceeding including preparing required materials to conduct the public consultation and raise awareness.

5.0 PRESENT AND IMPLEMENT

5.1 In order to be able to assist with the process of presenting and implementing the Article 4 Direction and the additional burden this would mean to the Local Planning Authority, a formal application for resources has been submitted to the Welsh Government.

5.2 These additional resources would be to fund additional Planning Officers in the Planning Service in response to the inevitable increase that would derive in relation to applications, enquiries and associated complaints. This resource can also contribute to the work of preparing a new Local Development Plan for Gwynedd, and specifically any new planning policy involving second homes and short-term holiday accommodation.

5.3 Thus far, no formal confirmation has been received to the request for additional resources from the Welsh Government, however they have confirmed that financial support will be provided for a period up to the end of March 2026.

5.4 It has to be acknowledged that the recruitment of additional planning officers for a temporary period is challenging, however preparatory work to be able to appoint/advertise jobs is proceeding. As part of this, recruitment packages are being prepared and a draft example of the package for the post of a Senior Planning Officer can be seen in Appendix 3.

6. RECOMMENDATIONS

6.1 The Scrutiny Committee is requested to accept the report and present any observations on the evidence base, the potential area options and the favoured option in Appendix 1, that will then be submitted to the Cabinet.

APPENDICES

Appendix 1: Paper to justify issuing the Article 4 Direction

Appendix 2: List of new use classes and their definitions

Appendix 3: Recruitment pack for Senior Planning Officer (draft)