

<b>Committee</b>	<b>COMMUNITIES SCRUTINY COMMITTEE</b>
<b>Date</b>	<b>16 May 2024</b>
<b>Title</b>	<b>Present the Public Engagement Report: Article 4 Direction Notice Engagement Period</b>
<b>Cabinet Member</b>	<b>Councillor Dafydd Meurig</b>
<b>Author</b>	<b>Gareth Jones – Assistant Head of Environment Department</b>
<b>Purpose</b>	<b>To scrutinise the representations received during the public engagement period and the Council's response to them.</b>

## **1. BACKGROUND**

- 1.1 A report was submitted to the Communities Scrutiny Committee on 9 March 2023 which provided an overview of the work related to justifying the intention to issue an Article 4 Direction. The process associated with the proposal was highlighted along with the preferred route of action, namely the contents of the Article 4 Direction and the geographical area it would apply to.
- 1.2 The purpose of the Article 4 Direction (if confirmed) is to remove permitted development rights associated with changing the use of a residential dwelling (C3 use) to holiday use, either as a second home (class use C5), a short-term holiday let (class use C6) or a mixed use of these use classes.
- 1.3 A public engagement period relating to the Article 4 Direction Notice was held between 2 August and 13 September 2023. This engagement period was a statutory requirement that is set out in the Town and Country Planning Order (Permitted General Development) 2022 (Amended)<sup>1</sup>.
- 1.4 The Council is now required to consider the observations received during the engagement period before it makes its final decision on confirming the Article 4 Direction. This decision will be the responsibility of the Cyngor Gwynedd Cabinet. Should it be decided to confirm the Article 4 Direction, it will be operational from 1 September 2024 onwards.

## **2. PURPOSE**

- 2.1 Following the report which was presented to the Communities Scrutiny Committee on 9 March 2023, this paper is presented to allow the Scrutiny Committee to consider the representations received during the public consultation period and the Council's response to them.

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1 [Town and Country Planning \(Permitted General Development\) Order 2022 \(Amended\).](#)

2.2 Furthermore, an overview is included of the steps involved in the process of introducing the Article 4 Direction and associated timetable.

### **3. PURPOSE**

3.1 The process relating to serving a Notice of Article 4 Direction is set out in the Town and Country Planning (Permitted General Development) Order 2022 (as amended). The process has four key steps:-

- **Step 1: Decide to make the Article 4 Direction Notice;**
- **Step 2: Conduct the public engagement period;**
- **Step 3: Consider the observations received and make the final decision (confirm the Article 4 Direction);**
- **Stage 4: Implementation of the Article 4 Direction**

#### **Step 1: Decide to make the Article 4 Direction Notice**

3.2 A Justification Paper was prepared by the Planning Policy Service, to support the route of action linked to introducing the Article 4 Direction. The Justification Paper, along with a draft version of the Notice of Article 4 Direction and a draft version of the Article 4 Direction were submitted to a meeting of the Cyngor Gwynedd Cabinet on 13 June 2023.

3.3 At this meeting, the Cabinet resolved:-

- To approve the paper to justify issuing the Article 4 Direction.
- To approve making an Article 4 Direction without immediate effect (i.e. implemented following a 12-month period).
- Serving a Notice of the Article 4 Direction.

#### **Step 2: Conduct the public engagement period**

3.4 The Notice of Article 4 Direction Notice was served on 2 August 2023 for a period of six weeks (up until 13 September 2023). The requirements set out in the Town and Country Planning (Permitted General Development) Order 2022 (as amended) make it a requirement to serve a Notice of Article 4 Direction for a 21-day period. In order to ensure ample opportunity for those affected to respond to the Notice, it was decided to place the Notice for a period of six weeks.

3.5 It is a requirement to place the Notice in at least two public spaces within the area to which it applies. Since the area where the Article 4 Direction is implemented covers the entire Gwynedd Local Planning Authority Area, it was decided that it was reasonable to place a copy of the Notice in a public space in every settlement affected. This meant that 114 site notices were placed. It was ensured that there was a record of placing the notice (photo) and the location of the notice was marked on a map.

3.6 Further publicity was given to serving the Notice by corresponding with every residential dwelling within the Gwynedd Local Planning Authority Area (approximately 52,000 residential dwellings). It is worth emphasising that it was not a requirement to send a letter to every residential dwelling, as the Order states that it is not essential if it is

deemed impractical to do so. However, it was considered important that there was awareness of the proposal amongst owners of residential dwellings because of the impact it could have on them and therefore it was deemed reasonable to correspond with every residential dwelling.

- 3.7 Further, in accordance with the requirements, the Notice was placed in local newspapers (Caernarfon and Denbigh Herald, Cambrian News and Bangor Mail). Copies of the relevant documents were available to view in the Council's main offices and the local public libraries and on the Council's website.
- 3.8 As well as serving the Notice, a period of public engagement was undertaken at the same time. Representations could be submitted on paper or on-line.
- 3.9 To facilitate the process of submitting observations a dedicated webpage was prepared ([www.gwynedd.llyw.cymru/article4](http://www.gwynedd.llyw.cymru/article4)) which contained the essential information and also a series of frequently asked questions and answers in the hope of relieving some pressure in terms of the number of enquiries received. Regular use was also made of social media to raise awareness.
- 3.10 The questionnaire that was prepared included two open-ended questions which gave people the opportunity to express their opinion on the Article 4 Direction and to note the impact it is likely to have on people with protected characteristics, the Welsh language and people who are economically disadvantaged. It is believed that the engagement work that has been held goes beyond the statutory requirement, but as the Article 4 Direction covers the entire Local Planning Authority Area and affects all residents in the area, it was important for us to do what was both reasonable and practical for us as an authority.

### **Step 3: Consider the observations received and make the final decision**

- 3.11 During the period of public engagement a total of 3,902 valid responses were received. 3,508 representations were made through the questionnaire and 394 representations were submitted via letter or e-mail. In addition to these valid responses (valid in that a representation was submitted), 369 void responses were also made. Although these void responses did not include a response to the question seeking opinions, some of the responses have responded to the 'About me' (personal details) section.
- 3.12 An Engagement Report has been prepared to report on the representations received during the engagement period (Appendix 1). Due to the nature of the representations and the wide range of matters raised, the responses received have been categorised in accordance with a specific theme. For each of these themes we have recorded the number of comments received that were relevant to those themes together with the 'Council's Response' to the matter in question. Under each main theme, Sub-themes have been recorded. The observations received were recorded in accordance with these sub-themes. There may be some instances where a respondent has raised a comment that applies to one or more of the sub-themes. The total 'Number of Comments' recorded is based on the combined number of responses that emerge from the sub-themes.

### **The Council's response to the observations**

- 3.13 In examining the Engagement Report (Appendix 1) a response to the representation received is noted. The nature of the response to the representation varies with more consideration and attention given to representation where there is a need to refer to specific or additional evidence to address the Council's response.
- 3.14 All stages associated with the preparation of the Article 4 Direction have been subject to expert legal assessment and modifications have been undertaken which reflect the guidance received.
- 3.15 Please note that some of the responses have led to undertaking additional research including liaising with local mortgage providers along with Local Councils.
- 3.16 The main objective of introducing the Article 4 Direction would be to overturn the social disparity that exists in some of Gwynedd's communities, seeking to ensure that there is provision of housing (including affordable housing) available to meet local need.
- 3.17 A range of responses have been received which include comments that are generally supportive of the intention and consider that it would provide opportunities for people to live in their communities. On the other hand, many are concerned that the intention would have an adverse affect as it would lead to falling property values resulting in individuals/families ending up in negative equity on their property and having difficulty obtaining mortgages.
- 3.18 The 'Public Engagement Report: Article 4 Direction Notice Engagement Period' (Appendix 1) responds to these concerns. In terms of falling property values research has been conducted looking at how similar mechanisms have affected property values in other areas, concluding that there is no obvious pattern to be seen. Further research has also been undertaken in relation to the availability of mortgages along with the impact the intention may have had on the tourism sector.
- 3.19 The Article 4 Direction was originally introduced following the preparation of the Justification Paper which was presented to the Council's Cabinet in June 2023. Following the public engagement period and collating the responses received and responding (see Appendix 1) we have found no additional information that would justify not ratifying the Article 4 Direction.

#### **Stage 4: Implementation of the Article 4 Direction**

- 3.20 Subject to the Cabinet's decision, the Article 4 Direction will be operational from 1 September 2024 onwards. Due to the additional workload that is anticipated following the decision, it is intended to recruit two additional Planning Officers / Planning Trainees to the Planning Service during the coming weeks (in addition to the two officers that have already been recruited). The anticipated additional workload includes:-
- Lawful Use Certificate Applications, with property owners seeking formal confirmation of the use;
  - Change of use applications being submitted for uses that used to be permitted development;

- An increase in the number of complaints received in terms of misuse of residential dwellings;
  - More general enquiries wanting to gain a better understanding of the situation.
- 3.21 It is possible to fund the additional posts through the money allocated by the Government in relation to supporting a range of activities in association with the Dwyfor Pilot Scheme, along with money that has been earmarked by the Council.
- 3.22 Another crucial element to ensure that the broader objective of implementing the Article 4 Direction is delivered will be to ensure that the local planning policies are fit for purpose. Therefore, it is proposed to make amendments to the Supplementary Planning Guidance: Tourist Facilities and Accommodation to provide further guidance on how to apply the Joint Local Development Plan policies in light of the Article 4 Direction. Also, there will be a need to consider the content of the relevant policies in the new prospective Local Development Plan.

#### **4. CONSIDERING THE IMPACT**

- 4.1 The Council is required (under the Equality Act 2010) to consider the impact that any changes in any policy or procedure (or the creation of a new policy or procedure) will have on people with protected equality characteristics. The Council also has additional general duties to ensure fairness and to foster good relationships. An Equality Impact Assessment should therefore be undertaken before any decision is taken on any relevant change (i.e. that affects people with protected equality characteristics).
- 4.2 The Council is also required, under the Welsh Language Standards (Section 44 of the Welsh Language (Wales) Measure 2011), to consider the impact that any change in policy or procedure (or creating a new policy or procedure), will have on opportunities for people to use the Welsh language and to ensure that the Welsh language is not treated less favourably than English.
- 4.3 Additionally, in accordance with the Socio-economic Duty that came into force in Wales on 31 March 2021, public bodies have a duty to consider how strategic decisions, including setting objectives and developing public services, reduce inequalities in terms of the outcome for people who face socio-economic disadvantage.
- 4.4 To assess how the proposal of introducing the Article 4 Direction would affect the requirements noted above, an integrated Equality Impact Assessment (Assessing Impact on Equality Characteristics, the Welsh language and Socio-Economic Disadvantage) has been completed. The Assessment is included in Appendix 4 of the Public Engagement Report: Notice of Article 4 Direction Engagement Period (Appendix 1). This Assessment has been amended following the public engagement period.
- 4.5 The Assessment highlights that it is difficult to anticipate the impact of implementing the Article 4 Direction as this form of action is unprecedented. However, it is noted that the social injustice that currently exists in some communities in light of the lack of affordable housing, along with house prices that are beyond their reach, which is creating an unsustainable divide in our society. In an effort to seek to overturn the current situation it is hoped that introducing the Article 4 Direction will provide an opportunity to assess

the propriety of any proposal that involves changing the use of a residential home to holiday use, be that use as a holiday let or a second home. It is hoped that this would create a fairer society and would ensure opportunities for all to be able to live in their area of choice. It is therefore noted that reducing inequality that derives from socio-economic disadvantage is a core part of the reason why introducing the Article 4 Direction is needed. Furthermore, it was concluded that the new procedure would be more inclusive and would offer everyone an opportunity to have an input in the Planning process.

- 4.6 The assessment also concludes that introducing the Article 4 Direction would have a positive impact on the Welsh language and on the balance of communities as it is hoped that it will stabilise the housing market and offer opportunities for people to be able to live in their communities.
- 4.7 The Assessment highlights that ensuring an appropriate monitoring framework to assess the impact of implementing the Article 4 Direction is crucial, and a means of identifying negative (and positive) impacts and seeking a solution for them as needed.

#### **The Well-being of Future Generations (Wales) Act 2015**

- 4.8 Another important consideration is the Well-being of Future Generations (Wales) Act 2015. The Act seeks to improve Wales’s social, economic, environmental and cultural well-being. The act places a well-being duty on public bodies which is aimed at delivering the seven well-being goals by following the five ways of working. The following table highlights these well-being aims and explains concisely how the proposal achieves the aims in question:-

<b>Aim</b>	<b>Explanation of how the proposal of introducing the Article 4 Direction delivers the aim</b>
A prosperous Wales	It will offer opportunities for people to live and work in Gwynedd and will therefore mean there will be a stable, skilled and educated population to support the local economy.
A resilient Wales	It will lead to a fairer society and thus the county's social resilience will be maintained.
A healthier Wales	It will create a fairer society and thus would create circumstances for people to be able to live and work in Gwynedd, which in turn has a positive impact on health.
A more equal Wales	It will create a society that is more equal and will enable better opportunities for all.
A Wales of cohesive communities	It will be a means of creating attractive, viable and safe communities.
A Wales of Vibrant Culture and Thriving Welsh Language	It will offer better opportunities for people to be able to live in their communities and will be an indirect means of protecting culture, heritage and the Welsh language.
A Globally Responsible Wales	Although implementing the Article 4 Direction would be done on a local level in Gwynedd, the principle of creating a fairer society and offering better opportunities for

	people to live and work in their local communities thus creating viable and sustainable communities is an example of good practice.
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## **5.0 NEXT STEPS**

- 5.1 A report will be submitted to the Cyngor Gwynedd Cabinet in June to present the Public Engagement Report (Appendix 1) and to ask the Cabinet to make its final decision on the Article 4 Direction.
- 5.2 Based on an assessment of the representations received during the public engagement period, consideration of the evidence in the Article 4 Justification Paper, and the further research work done in response to some of the representations received, no further information has been identified which would justify not confirming the Article 4 Direction.
- 5.3 Subject to the Cabinet's approval, the Council must act to publicise the decision to confirm the Article 4 Direction in accordance with the statutory requirements.

## **6. RECOMMENDATIONS**

- 5.1 The Scrutiny Committee is asked to accept the report and submit any observations on the Public Engagement Report (Appendix 1) as appropriate. The Scrutiny Committee's observations will be reported to the Cabinet as it makes its final decision in relation to confirming the Article 4 Direction.

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## **APPENDICES**

Appendix 1: Public Engagement Report: Article 4 Direction Notice Engagement Period