

Report of Director of Placemaking, Decarbonisation and Engagement

Subject: The implications of recent Welsh Government Legislative and Planning Policy Changes in relation to Second Homes and Short-term Lets.

Purpose of Report

This report sets out:

- A summary of the legislative and Welsh Government planning policy changes that have recently been introduced and the implications of these changes for currently considering planning applications under the Local Development Plan (2).
- The implications of these changes in terms of options relating to an Article 4 Direction.

The report identifies proposed next steps for endorsement.

Background to legislative and Planning Policy Wales changes

In response to research in 2021¹ identifying that second homes and short-term lets are having complex impacts on housing markets and communities in different localities in Wales, Welsh Government announced three measures designed to provide greater controls in relation to the use of properties as second homes and short-term commercial lets. These measures include:

- providing Local Authorities with the ability to charge 300% on Council tax for second homes.
- the introduction of a licensing scheme for short-term lets (a consultation on this is currently underway).
- changes to planning legislation and policy.

It is this third measure which is of greatest relevance to Pembrokeshire Coast National Park Authority as a Local Planning Authority. In October 2022, Welsh Government introduced three new use classes via an amendment to The Town and Country Planning (Use Classes) Order 1987 to create new use classes.

The three uses now included are:

- Use class C3 (dwelling houses; used as sole or main residences occupied for more than 183 days in a calendar year).
- Use class C5 (Dwelling houses; used otherwise than as sole or main residences covering a dwellinghouse other than as a sole or main residence and occupied for 183 days or fewer in a calendar year i.e second homes)

¹ <https://gov.wales/sites/default/files/publications/2021-03/second-homes-developing-new-policies-in-wales.pdf>

- Use class C6 (Short-term lets, covers the use of a dwellinghouse for commercial short-term letting not longer than 31 days for each period of occupation).

Simultaneously Welsh Government amended the Town and Country Planning (General Permitted Development) Order 1995 to allow permitted changes between the new use classes - C3, C5 and C6 or a mixture of those uses.

Planning Policy Wales Changes

Complementary changes have also been made to section 4.2 of Planning Policy Wales (PPW). These policy changes make it explicit that, where relevant the prevalence of second homes and short term lets in a local area must be taken into account when considering the housing requirements and policy approaches in Local Development Plans. Reference is made to a co-ordinated approach being needed and the need to explore options when drafting or redrafting Development Plans including:

- The introduction of a cap or ceiling on the number of second homes or short-term lets.
- Divergence from national policies in order to meet specific local housing needs for market housing. Justification is required in terms of, for example, land supply, environmental or social impacts, including the prevalence of second homes and short-term lets. Evidence from local studies are suggested and from documents such as the Local Wellbeing plan or the Local Housing Market Assessment. The expectation is that there will be a focus on specific communities.
- Sites could be specifically identified which are limited in use to sole or main residences or local market housing.
- Area specific Article 4 Directions could be considered which may require all new homes use to be limited to being sole or main residences.

Article 4 Directions

Additional changes to the Town and Country Planning (General Permitted Development) Order 1995 introduced amended processes for the creation of Article 4 Directions (see Appendix 4). The changes give Local Planning Authorities the ability, where they have evidence, to disapply permitted development rights within a specific area by an Article 4 Direction made by a Local Planning Authority on the basis of robust local evidence. Where imposed this would allow the Planning Authority to consider whether planning permission is required to change from one use class to another and to control the number of additional second homes and short-term lets in an area.

It is for each planning authority to decide, based on local circumstances, whether they wish to pursue the possible introduction of an Article 4 Direction in specific areas to remove permitted development rights for changes between the new use classes. Any such Article 4 Direction will need to be supported by robust local evidence highlighting the impact of second homes and short-term lets on specific communities as part of a co-ordinated response which applies all available interventions to an area. It will also need to evidence effective community engagement.

Officers of the Authority have begun to consider the implications of these legislative and national planning policy changes for future policy development.

The Authority has at the Examination into the Local Development Plan 2 prepared an evidence base that considered the introduction of a Principal Residence/Local Needs Policy.² At that time the conclusion was that:

*'3.35 I am content that there is no compelling evidence for the inclusion of a Principle Residence or a Local Connections policy within the Replacement Plan, either for Newport or the National Park as a whole. Moreover, I consider that the imposition of such a policy is likely to have an adverse effect on the delivery of market and affordable housing, and in doing so, would undermine the Plan's strategy. In the case of the centres, in which the study found there is a need for affordable housing, I am content that the approach taken in Strategic Policy 49 to the provision of affordable housing will assist in addressing this issue and ensuring the appropriate distribution of social and intermediate housing across the National Park.'*³

Included in the Local Development Plan 2 is a monitoring chapter which sets out how the strategy, objectives, policies and proposals in the plan will be monitored against appropriate indicators and trigger points for action and linked to plan review/revision.

The first Annual Monitoring Report for the Local Development Plan concluded that there is insufficient evidence to consider a change in approach at present.⁴

Since the Annual Monitoring Report was published for consultation, data has been made available from Council Tax and Non-Domestic Rates by Pembrokeshire County Council which provides more site-specific evidence on the prevalence of second homes and short term lets in the Plan area's Centres. Officers are requesting area wide information which will assist with further analysis.

Officers consider that additional analysis of data and further research would be required if the Authority wished to explore establishing an Article 4 Direction. Officers are currently considering commissioning additional work to be undertaken. It would be beneficial to explore this with Welsh Government and other authorities grappling with similar issues. The data made available from PCC is however more significant and granular than any previous information available to the Authority.

The key issue here is the ability to establish evidence that justifies a local policy approach in relation to second homes and short-term holiday lets to support the viability of communities. Welsh Government research⁵ at the time of considering introducing changes advised:

- Of the need for further research to explore the impact that second homes have or could in future have upon house prices. Comparative case studies from across Wales, drawing on objective data, would likely enable this.

² <https://www.pembrokeshirecoast.wales/wp-content/uploads/2019/12/Exam111-HS1-AP10.pdf>

³ <https://www.pembrokeshirecoast.wales/planning/planning-policy/local-development-plan-2/local-development-plan-replacement-stages/examination/inspectors-report/>

⁴ <https://www.pembrokeshirecoast.wales/annual-monitoring-report/>

⁵ <https://gov.wales/research-develop-evidence-base-second-homes> Please copy into browser to use link

- Of the need to not develop and pursue policy responses in isolation, reference here is made to links with affordability in the housing market more generally.
- Research is needed to establish how to define a threshold, beyond which a significant impact is caused by second homes.

Members are asked to support this approach going forward.

Planning applications and the Use of Conditions

It should however be noted that in the shorter term, until such time as any decisions on whether to make an Article 4 direction is made, individual applications are coming forward where issues relating to the new use classes C5 and C6 may arise.

The amendments to the Use Classes Order may also be applied by the Local Planning Authorities by way of planning conditions to restrict the use of a development to one particular use class within the order, removing permitted development rights to move between uses.

Planning conditions are subject to a number of tests established in the Welsh Government circular WGC016/2014 'The Use of Planning Conditions for Development Management'⁶ so any condition imposed would need to meet these tests, that conditions must be: (i) necessary; (ii) relevant to planning; (iii) relevant to the development to be permitted; (iv) enforceable; (v) precise; and (vi) reasonable in all other respects.

Officers have been considering the appropriateness of applying conditions to control occupancy given the amendments to the Use Classes Order 1987 which provides for the three use classes set out above.

Planning legislation requires applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise. For Pembrokeshire Coast National Park Authority the Development Plan is the Pembrokeshire Coast National Park Authority LDP 2 (PCNPA LDP2) (available here: <https://www.pembrokeshirecoast.wales/planning/planning-policy/local-development-plan-2/>) and Welsh Government's Future Wales - the National Plan for Wales 2040.

Policy 46 Housing (Strategy Policy):

When the Pembrokeshire Coast National Park Local Development Plan 2 was prepared it included a housing requirement figure which incorporated an allowance for second homes and holiday homes known as a 'vacancy rate'. Dwelling growth associated with the projected household growth is calculated using a dwelling 'vacancy rate' which takes account of the number of vacant or second properties in the National Park. Pembrokeshire Coast National Park has a high vacancy rate due to the number of second/holiday homes in the area. The total housing requirement figure assumed that of those properties built during the LDP 2 period (until 2031) 26.7% of these would be used as either second homes or holiday homes.

⁶ [Microsoft Word - Planning Conditions Circular - The Use of Planning Conditions for Development Management - Publication version without front cover 20141006.docx \(gov.wales\)](#)

Officers have undertaken initial research to establish what that figure means when disaggregated to individual community areas in the National Park (see Appendix 1). The figures originate from the 2011 Census.

As advised above the Authority has also recently had Council Tax and Non-Domestic Rates data made available by PCC which relates to PCNP Centres and Officers are now beginning to explore:

- Whether Centres in a community, have a greater prevalence of second homes and/or short-term lets for that location than anticipated when the housing requirement was set out for the Local Development Plan.
- Whether specific types of development (e.g. terraced, estate, flatted development) are more likely to be used as second homes and/or short-term lets.
- Whether the location of development within a Centre (for example being by the seaside or benefitting from sea views) results in a greater prevalence for second homes and short-term lets.

A greater prevalence for second homes and short-term lets than anticipated in a specific location would be an issue for implementing the Local Development Plan's housing requirement under Policy 46 Housing (Strategy Policy) of the Local Development Plan as it could undermine anticipated delivery of (in particular) primary residences. Conversely, a lesser prevalence for second homes and holiday homes than anticipated would mean that the Local Development Plan's housing requirements under Policy 46 Housing (Strategy Policy) of the Local Development Plan were capable of being delivered and that holiday homes and second homes were less of an issue. This analysis, it is considered, could provide a rationale for justifying a need to impose a planning condition on a case by case basis where a greater prevalence of second homes and holiday let than anticipated in the Local Development Plan's strategy is considered likely.

Policy 40 Self-catering Development: Local Development Plan 2 also includes Policy 40 Self-catering Development which only permits self-catering development in specific locations (in a brownfield location in a Centre or in a conversion in a countryside location) but only in those instances where the site or building is inappropriate for market or affordable housing provision. Policy 40 is considered to provide strong justification for the imposition of a condition limiting use to C3 without permitted development rights to move to C5 (Second Homes) or C6 (Short-term commercial lets).

However, given that a vacancy rate allowance, as set out above under the Policy 46 Housing commentary, is already factored into the housing provision figures of the Local Development Plan 2 the Authority will be required to consider the prevalence of second homes and holiday lets in a locality in coming to such a decision as to the necessity of imposing a condition.

Policy 47 Housing Allocations or Land with Permission & Policy 48 Affordable Housing: Both these policies are supported by assumptions made to determine the viability of housing development to deliver the Authority's affordable housing targets. The viability was based on open market housing prices. If occupancy controls were

imposed on housing then this can impact on viability. When the Local Development Plan Examination was undertaken an assessment of impact based on policies in place at the time was undertaken.⁷

Since the Examination was concluded new evidence has emerged regarding the specific impact of the imposition of a primary residence control. Reference is being made in locations such as Cornwall, Dorset and the Scilly Isles regarding viability impacts.

The documents advise that placing additional restrictions on new homes to exclude use for holiday letting may affect the market value of properties built as it limits the number of buyers by excluding all prospective second home and short-term letting owners.

The rule of thumb appears to be 95% of open market value when a condition restricting holiday letting is used.

There are of course many other existing strains on viability with building costs rises in recent years reducing viability. This can be set against house price increases. Any reduction in a development's viability would be likely to have negative implications for the Authority's affordable housing numbers which is a key strategic objective of Local Development Plan 2.

Two useful references are provided by Dorset County Council⁸ and the Scilly Isles as to their approach in background papers on the subject⁹.

'2.12 Homes with a sea view will attract higher selling prices and thus improve viability outcomes. We have modelled our case studies without a sea view but show, via a sensitivity test, the additional value such market homes can add to development. Where principal residence market housing is tested we have reduced the selling price by 5%.'

'4.5 Sale prices for new build market housing were reduced from their full market value to reflect the restrictions on sales imposed by the draft Local Plan policies as follows: • For 'Principal Residence' criteria – open market value reduced by 5% (based on workshop discussion) • For 'local connection' criteria – open market value reduced by 20% (based on feedback from other National Park Authorities and workshop comments)'¹⁰

This was agreed with by the Planning Inspector who assessed the Exmoor Local Plan for soundness The Inspector's Report said:

⁷ <https://www.pembrokeshirecoast.wales/wp-content/uploads/2019/12/Exam111-HS1-AP10.pdf>

⁸ [9e6c81c7-b186-cad3-b5c9-99dab34d40f7 \(dorsetcouncil.gov.uk\)](https://www.dorsetcouncil.gov.uk/9e6c81c7-b186-cad3-b5c9-99dab34d40f7) – Para 4.3 deals with viability issues.

⁹ <https://www.scilly.gov.uk/sites/default/files/planning-apps/Housing%20Viability%20Assessment%20Council%20of%20Isles%20of%20Scilly%20-%20Final%20Report%20March%202018.pdf>

¹⁰ https://www.exmoor-nationalpark.gov.uk/_data/assets/pdf_file/0025/222694/CE12-Three-Dragons-and-Rural-Housing-Solutions-2016-ENPA-Whole-Plan-Viability-Studya.pdf

*'79. The consultation responses revealed general local support for the principle of the policy. As second and holiday homes are not a category of need for which the NPPF advises that provision should be made, the policy involves no specific conflict with national policy. Agents and developers who advised the Authority on the viability assessment of the Plan agreed that a 5% reduction in the value of new dwellings subject to the principal residence requirement would be likely. This would have a small positive impact on affordability and has been factored into the Viability Study calculations.'*¹¹

The Viability Assessment for the Pembrokeshire Coast National Park Local Development Plan's Affordable Housing Study has been recalculated using 95% of open market valuation. All the other assumptions remain the same. Appendix 3 sets out a summary table of the results.

These figures are provided to highlight that there may be implications for the delivery of affordable housing if the imposition of such a condition is considered. These conclusions would require further analysis as they are general in nature and will not account for changes in viability assumptions since the Local Development Plan 2 preparation, unique site-specific issues or location specific issues that arise. The viability implications of the imposition of a condition restricting holiday letting or second home use for any specific proposal would need to be considered on a case-by-case basis, with independent advice taken on viability appraisal, where considered appropriate.

Members are requested to support the Officers' approach set out above to considering recommending the imposition of an occupancy condition on a case-by-case basis. This will include the need to ensure that the any condition imposed must be: (i) necessary; (ii) relevant to planning; (iii) relevant to the development to be permitted; (iv) enforceable; (v) precise; and (vi) reasonable in all other respects. The approach set out above will help ensure this is achievable.

Financial considerations

With a judicious approach to the imposition of conditions there would be limited financial considerations to the Authority. Some additional legal support will likely to be needed which is budgeted for. If the Authority chooses to explore further research as set out in the report, then there is some budget available in Reserves to allocate for commissioning research.

Future development of policy and possible progression of Article 4 Directions will require costing, and resourcing, at that stage and be reported back for consideration to the Authority members.

Risk considerations

Any planning condition attached to a permission can be the subject either of an application to remove the condition (a Section 73 application) or the subject of an appeal, in respect of which there are also resource and costs considerations (even

¹¹ https://www.exmoor-nationalpark.gov.uk/data/assets/pdf_file/0027/239715/Inspectors-Report-full.pdf

more so should the Authority be found to have behaved unreasonably in an appeal). In adding any condition to a permission, the Authority must accordingly be satisfied that it has sufficient evidence and that the condition meets the WG Circular tests. To support its position this information should be included in any delegated or Committee report.

As set out above there is a risk that attaching a condition to a development site will reduce market sale values and impact on financial viability. This may result in a lower level of affordable housing being delivered on these sites. It is important that the Authority carries out an assessment of viability where such a condition might be imposed. As set out in this report, implications for Policy 46 Housing (Strategy Policy), Policy 47 Housing Allocations or Land with Permission & Policy 48 Affordable Housing: and Policy 40 Self-catering Development will need to be assessed.

Equality considerations

The Public Equality Duty requires the Authority to have due regard to the need to eliminate discrimination, promote equality of opportunity and foster good relations between different communities. This means that, in the formative stages of our policies, procedure, practice or guidelines, the Authority needs to take into account what impact its decisions will have on people who are protected under the Equality Act 2010 (people who share a protected characteristic of age, sex, race, disability, sexual orientation, gender reassignment, pregnancy and maternity, and religion or belief). This is a monitoring report and does not contain policy, procedure, practice or guidelines.

The process for Local Development Plan preparation and its rigorous assessment procedures includes an Equality Impact Assessment. Any new policy development will in due course require an Equality Impact Assessment.

Welsh Language

Local Development Plan preparation was carried out in accordance with the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards Regulations (No.1) 2015. Any new policy development in due course will require an assessment of the implications for the Welsh language.

Well Being and Future Generations Act

In reaching a recommendation, regard has been given to the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. It is considered that this recommendation is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.

Conclusion

Amendments to planning legislation in Autumn 2022 create the opportunity for the Local Planning Authority to use both Article 4 Directions and the imposition of planning conditions to restrict the use of dwellinghouses to main residences in new developments. The Authority has up-to-date evidence for the Centres of the National Park, which provides fine grained information on the prevalence of second homes or

short-term lets in existing and recently built housing stock. This, combined with the policy 40, 46, 47 and 48 within the PCNPA LDP 2 provides a policy framework which may justify the imposition of conditions to restrict changes of use to C5 and C6 in specific circumstances.

Further research is however needed before any conclusions regarding Article 4 Directions are reached.

The National Park Authority is therefore requested to support the use of conditions in appropriate circumstances as an interim approach with further work needed in relation to whether an Article 4 Direction would be supported.

RECOMMENDATION:

That Members note the contents of this report and support the following actions:

- **Further exploration of data and evidence that might inform the establishment of an Article 4 Direction.**
- **The imposition of planning conditions is considered on applications for planning permission on a case by case basis via normal development management procedures.**

Background Documents

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Consultees: Martina Dunne, Phil Barlow, Sarah Hirst, Gayle Lister, Charles Felgate, Kate Attrill, Andrew Richards, Rob James.

Appendix 1 2011 Census Figures

| Community/City/Town Council Areas: | All household spaces | Household Spaces with no usual resident: | Household Spaces with No usual resident (%) |
|---|-------------------------------------|---|--|
| Newport | 930 | 347 | 37.31% |
| Nevern | 454 | 100 | 22.03% |
| Saundersfoot | 1680 | 480 | 28.57% |
| Amroth | 730 | 185 | 25.34% |
| Stackpole & Castlemartin | 348 | 67 | 19.25% |
| Puncheston | 256 | 26 | 10.16% |
| The Havens | 797 | 284 | 35.63% |
| Nolton & Roch | 477 | 124 | 26.00% |
| Dinas Cross | 543 | 160 | 29.47% |
| St Davids | 1164 | 313 | 26.89% |
| Tenby | 2982 | 732 | 24.55% |
| Mynachlogddu | 232 | 19 | 8.19% |
| Cwm Gwaun | 147 | 24 | 16.33% |
| St Mary Out Liberty | 507 | 143 | 28.21% |
| Marloes & St Brides | 204 | 65 | 31.86% |
| Dale | 156 | 52 | 33.33% |
| Solva | 523 | 132 | 25.24% |
| Lamphey | 780 | 376 | 48.21% |
| Llanrhian | 548 | 145 | 26.46% |
| St Ishmaels | 258 | 52 | 20.16% |
| Herbrandston | 175 | 12 | 6.86% |
| Angle | 185 | 34 | 18.38% |
| Manorbier | 669 | 91 | 13.60% |
| Totals: | 14745 | 3963 | Percent No Usual Residents (Totals): 26.88% |

Appendix 2: PCC 2nd home council tax and business rate holiday home percentage by LDP 2 Centre boundary¹²

| <i>Centre</i> | <i>% of Residential Properties that are second homes or business rated holiday homes in the National Park</i> |
|--|---|
| <i>Tenby (Service and Tourism Centre)</i> | <i>28.07%</i> |
| <i>Saundersfoot (Local Centre)</i> | <i>29.35%</i> |
| <i>St Davids (Local Centre)</i> | <i>20.86%</i> |
| <i>Newport (Local Centre)</i> | <i>30.6%</i> |
| <i>Crymych (Local Centre) lies predominantly with PCC's Planning jurisdiction.</i> | <i>0% (2.97% outside the National Park)</i> |
| <i>Rural Centres</i> | |
| <i>Amroth</i> | <i>47.37%</i> |
| <i>Angle</i> | <i>15.79%</i> |
| <i>Bosherston</i> | <i>28.57%</i> |
| <i>Broad Haven</i> | <i>36.58%</i> |
| <i>Castlemartin</i> | <i>6.52%</i> |
| <i>Cresswell Quay*</i> | |
| <i>Dale</i> | <i>39.47%</i> |
| <i>Dinas Cross</i> | <i>15.34%</i> |
| <i>Felindre Farchog</i> | <i>4.35%</i> |
| <i>Herbrandston</i> | <i>5.58%</i> |
| <i>Jameston</i> | <i>8.57%</i> |
| <i>Lawrenny</i> | <i>28.57%</i> |
| <i>Little Haven</i> | <i>62.96%</i> |
| <i>Lydstep</i> | <i>16.22%</i> |
| <i>Manorbier</i> | <i>14.98%</i> |
| <i>Manorbier Station</i> | <i>0%</i> |
| <i>Marloes</i> | <i>29.66%</i> |
| <i>Moylegrove</i> | <i>22.64%</i> |
| <i>Mynachlogddu *</i> | |
| <i>Nevern*</i> | |
| <i>Newgale*</i> | |
| <i>Nolton Haven</i> | <i>60%</i> |
| <i>Pontfaen*</i> | |
| <i>Porthgain</i> | <i>22.58%</i> |
| <i>Rosebush</i> | <i>15.52%</i> |
| <i>Solva</i> | <i>22.05%</i> |
| <i>St Ishmaels</i> | <i>11.17%</i> |
| <i>Trefin</i> | <i>26%</i> |

¹² Figures are not available for Centres with no Centre boundary shown on the Proposals Map.

| <i>Rural Centres (lying partly in the Council's planning jurisdiction)</i> | <i>% of Residential Properties that are second homes or business rated holiday homes in the National Park</i> | <i>% of Residential Properties that are second homes or business rated holiday homes outside the National Park</i> |
|---|--|---|
| <i>Carew</i> | <i>0%</i> | <i>8.06%</i> |
| <i>Coshaston</i> | <i>0%</i> | <i>2.56%</i> |
| <i>Hook</i> | <i>0%</i> | <i>1.9%</i> |
| <i>Houghton</i> | <i>0%</i> | <i>2.38%</i> |
| <i>Lamphey</i> | <i>0%</i> | <i>5.33%</i> |
| <i>Llangwm</i> | <i>- (no Centre boundary)</i> | <i>7.42%</i> |
| <i>Milton</i> | <i>0%</i> | <i>1.2%</i> |
| <i>New Hedges</i> | <i>4.35%</i> | <i>6.33%</i> |
| <i>Pleasant Valley</i> | <i>- (no Centre boundary)</i> | <i>21.31%</i> |
| <i>Roch</i> | <i>33.33%</i> | <i>7.05%</i> |
| <i>Square & Compass</i> | <i>25%</i> | <i>- no statistic available</i> |
| <i>Wisemans Bridge</i> | <i>35.71%</i> | <i>- (no Centre boundary)</i> |

**Rural Centre without a Centre Boundary shown on the Proposals Map*

Appendix 3 Viability

Principal Residence: Updated Viability Testing – Housing Sub-Market Areas

Parameters:

Site size: 1ha

Number of dwellings/density: 30dph

Market value price adjustment: 95% (-5%)

| Sub-market area: | Land Value Bench Mark (per ha) (LVB) | Residual Value | LVB uplift: |
|--------------------------|---|-----------------------|--------------------|
| Newport | 552,273.00 | 1,426,000.00 | 873,727.00 |
| Tenby | 553,523.00 | 1,529,000.00 | 975,477.00 |
| South East Coast | 378,409.00 | 859,000.00 | 480,591.00 |
| St Davids & North Coast | 323,864.00 | 292,000.00 | -31,864.00 |
| South West Coast | 300,000.00 | 235,000.00 | -65,000.00 |
| St Brides Bay | 291,477.00 | 153,000.00 | -138,477.00 |
| Estuary Hinterland | 286,364.00 | 149,000.00 | -137,364.00 |
| North East National Park | 284,659.00 | 159,000.00 | -125,659.00 |

Appendix 4: Details regarding Article 4 Direction Creation

Article 4 Directions provide a means for local planning authorities to address local circumstances in response to changes to permitted development rights. They provide local planning authorities with the ability to withdraw permitted development rights which would otherwise apply by virtue of the GPDO. An article 4 Direction does not prevent the development to which it applies but instead may require planning permission to be obtained from the local planning authority for that development.

The updates to the General Permitted Development set out in The Town and Country Planning (General Permitted Development etc.) (Amendment) (Wales) (Order) 2022 included amended procedures for implementing an Article 4 Direction in a new Schedule 2A. Article 4 of the GPDO permits local planning authorities and the Welsh Ministers to direct that any or particular development permitted under article 3 of the GPDO is not to apply in a specified area. The updates included in 2022 set out two types of direction that can be made: a direction with immediate effect and a direction without immediate effect.

The need for directions to be confirmed by the Welsh Ministers has been removed. Local planning authorities confirm all article 4 Directions (except those made by the Welsh Ministers) in the light of local consultation. In most cases, a local planning authority must however, as soon as practicable after confirming an article 4 direction, give notice to the Welsh Ministers of the confirmation and provide a copy of the confirmed direction. The Welsh Ministers have a reserve power to make a subsequent direction to withdraw or vary a direction made by a local planning authority at any time before or after it is confirmed. The Welsh Ministers may also make both Directions with immediate effect and Directions without immediate effect to remove permitted development rights.

An Article 4 Direction can be applied to a whole County, a whole National Park or to a specific location (such as a Centre or specific area within a Centre).

Once in place an Article 4 Direction requires that a planning application be submitted for what would otherwise constitute permitted development. It does not however necessarily mean that an application would be refused permission – this would depend on the policy basis used for assessment.