

Alliance  
for  
Welsh Designated  
Landscapes



Cynghrair  
dros  
Dirluniau Dynodedig  
Cymru



**By email to: [planconsultations-j@gov.wales](mailto:planconsultations-j@gov.wales)**

**Welsh Government consultation on planning legislation and policy for second homes and short-term holiday lets**

**A joint response from Campaign for National Parks and the Alliance for Welsh Designated Landscapes (February 2022)**

**Campaign for National Parks** is the independent national voice for the 13 National Parks in Wales and England. Our mission is to inspire everyone to enjoy and look after National Parks – the nation's green treasures. We have been campaigning for over 80 years to ensure that our National Parks are beautiful, inspirational places that are relevant, valued and protected for all. We bring together a wide variety of people and organisations to address issues affecting National Parks and take action to keep these beautiful places safe. We draw on a large pool of experts among our members, many of whom are actively involved in designated landscapes and their communities, across Wales and England and further afield.

The **Alliance for Welsh Designated Landscapes** champions the stewardship of Wales' designated landscapes. AWDL brings together the expertise of local and national organisations working as advocates for the protection and management needed for Areas of Outstanding Natural Beauty and National Parks to deliver their purposes and flourish.

We welcome the opportunity to respond to this consultation as high numbers of second homes and holiday lets are a significant issue in many parts of the National Parks, impacting on the Welsh language, community facilities and the availability and affordability of housing for local residents. Our response to individual questions is set out below.

**Q1: Do you agree or disagree that amending secondary legislation as proposed would be an effective means of helping to address the impacts of second homes and short-term holiday lets that have been identified in some communities?**

We agree that amending secondary legislation as proposed would be an effective way of helping to address the impacts of second homes and short-term holiday lets but this must be accompanied by relevant changes to primary legislation (see below).

In addition, we have significant concerns about the ability of local planning authorities to be able to implement this change effectively without additional resources. If this amendment is to have the desired effect, it must be accompanied by:

- More resources and funding for local planning authorities to enable them to employ additional staff to deal with the large increase in planning applications, certificates of lawfulness and enforcement proceedings that any amendment will create, especially if an Article 4 Direction is made.

- The introduction of a compulsory licensing scheme for holiday homes. It is currently very difficult to gather accurate information because the holiday home market is unregulated.
- Clear definitions for use in all three relevant regulatory processes - the taxation process, the planning process and the compulsory licensing scheme. Having clear and consistent definitions would make it easier to get an accurate picture of the number of homes affected in order to formulate policies, and to monitor and control numbers more effectively. We recommend the use of the term 'non-primary' rather than 'secondary' to avoid any risk of a legal loophole being created by those with three or more homes claiming the property is their tertiary etc home rather than a secondary one.
- Careful attention to the impacts of displacement, to avoid transferring the problems of high levels of second homes and holiday lets to neighbouring areas which are not controlled by an Article 4 Direction.
- Clear national guidance and policy for local planning authorities, particularly for areas where a new Local Development Plan is several years away from adoption.
- Further research on the impact of the proposals before they are implemented. In particular, we would like to see the Welsh Government progress the recommendations from "Research to Develop an Evidence Base on Second Homes" (November 2021).

**Q2: Do you agree that use class C3 should be amended and new use class C5 (Secondary homes) and use class C6 (Short-term Lets) be created? If not, please explain why.**

We agree that the new use classes should be created. As with any such change it will be necessary to guard against the risk of loopholes being found or created and, as set out above, we believe it would be better to use the term 'non-primary homes' rather than 'secondary homes' as the title for use class C5 as this is one potential loophole that could be avoided from the start of the legislation.

For this amendment to have the desired effect, the new use classes will need to be accompanied by the changes we set out in response to Q1, including a mandatory licensing system which requires the registration of homes in C5 and C6 use classes. A clear understanding of the current situation is required in order to understand the location of existing second homes and holiday lets. This is especially important if a threshold is to be used for determining when planning permission is required and it is not sufficient to rely on the council tax system for this purpose.

**Q3: Do you agree with the descriptions of the new and revised use classes? If not, please explain why.**

There is a need for a clear definition to be used in all three regulatory processes - the taxation process, the planning process and the mandatory licensing scheme for holiday homes. Having clear definitions would make it easier to get an accurate picture of numbers in order to formulate policies, and to monitor and control numbers more effectively. The lack of regulation currently makes it difficult to gather accurate information on the number of holiday homes.

Although council tax figures are considered the most accurate source of information, they are not completely reliable and rely on the owners of holiday homes using the correct council tax or business rates category for their property. There are also many properties marketed as self-catering holiday accommodation online, on platforms such as Airbnb, which may not be identified through traditional data collection methods. It is important that all such

properties are identified and registered. There will also be a need for careful co-ordination between taxation, licensing and planning processes, in order to be able to manage the new use classes effectively.

Defining the usage by the number of days will create difficulties for monitoring and enforcement. It will be difficult to prove the number of days, without a licensing/registration system to accompany the planning system as it will be hard for local planning authorities to prove how many days a property has been occupied for. Co-ordinating the definition with the tax regime will make the work of planning authorities easier and provide greater clarity for property owners.

**Q4: Are there any scenarios whereby use as a dwellinghouse under use class C3 could become unclear? Please provide examples.**

It will be difficult for local planning authorities to prove the number of days a property has been occupied without further resources and without a mandatory registration/licensing system to accompany the planning system. National Park Authorities, in particular, will not have access to the revenue from the council tax premium for second homes so they will not have any additional funding to support this work and will need to rely on the support of relevant departments in their constituent local authorities.

**Q5: Would you support amending primary legislation (i.e. the TCPA 1990) for the purpose of managing second homes and short-term holiday lets?**

Yes, we would support amending primary legislation as this is the only way to ensure that the change of use to a second home or short-term holiday let counts as a material change of use.

Changes in planning legislation should be reinforced with a parallel licensing scheme which will address issues not controlled by planning, including environmental health considerations such as noise. This has been shown to be effective in Scotland.

**Q6: Do you agree the GPDO should be amended to permit changes of use set out in Table 2 if the proposed changes to the UCO are taken forward? If not, please explain why.**

We support the changes to the Use Class Order and the principle of allowing local planning authorities to use Article 4 Directions to manage high levels of second homes and short-term lets in areas where these are a particular problem. However, we do have concerns regarding the permitted changes of use as set out in Table 2, in that allowing a building classed as a holiday let to become a primary residence and removing the need for planning permission in such cases would undermine NPAs' ability to seek a contribution for affordable housing provision.

We are also concerned that the proposed approach puts the onus for determining when to require planning permission on local planning authorities and means that it will only be applied in relatively small areas of Wales. Where an Article 4 Direction has been issued, the planning department will require additional resources to deal with the increased number of planning applications. Meanwhile some areas that do not currently meet the threshold to justify Article 4 Directions will be likely to see increasing numbers of second homes and short-term holiday lets as the issue is displaced to other, often neighbouring, areas.

**Q7: Do you agree the use of Article 4 Directions by local planning authorities provides an appropriate targeted response to a location-specific issue? If not, please explain why and/or suggest an alternative approach.**

Yes we agree that it provides one appropriate response, but it also brings its own problems, some of which may best be addressed through national measures – see below.

We are concerned that this approach will put a great deal of pressure on the resources of local planning authorities, particularly as there will be no fees associated with these planning applications. If Welsh Government decides to continue with the proposed approach, then there is a strong case for making an exception to the usual approach and requiring a planning fee. Otherwise, there will be no additional resources available for local planning authorities having to deal with a high volume of planning applications, certificates and enforcement cases. Furthermore, National Park Authorities will not benefit from the council tax premium on second homes as this is collected by local authorities rather than local planning authorities.

Care needs to be taken on the impact of displacement, where areas which are not controlled by an Article 4 direction will come under increased pressure from second homes and holiday accommodation. Consideration should, therefore, be given to allowing Article 4 Directions to be implemented at a local planning authority or regional level rather than ward or community council level and encouraging local planning authorities to work together to avoid moving the problem to neighbouring areas.

Allowing local planning authorities to choose whether or not to adopt an Article 4 direction may have significant, unintended consequences on neighbouring local planning authorities. It will also create long-term uncertainty as an Article 4 direction can also be revoked at any time. It would be better to introduce a consistent approach by amending primary legislation so that creating a second home or holiday let becomes a material change of use throughout Wales.

**Q8: In respect of change of use to a second home or short-term holiday let, where an Article 4 Direction is made, should applicants have a right to claim compensation if a local planning authority refuses permission or grants permission subject to conditions other than those imposed by the GPDO within the first 12 months?**

No, applicants should not have the right to claim compensation. Requiring local planning authorities to pay compensation would act as a major deterrent to the implementation of this new approach.

**Q9: Do the proposed amendments to PPW make it clear that the prevalence of second homes and short-term holiday lets must be considered by local planning authorities when developing the requirement for market and affordable homes within a particular area and whether a local policy approach is required in a Local Development Plan (LDP)?**

No, the changes are not strong enough. 'Consider' is too weak a word. There should either be an automatic requirement for the Article 4 Direction above a certain threshold (e.g. when more than a certain percentage of properties in a given area are not primary residences) unless the local planning authority can demonstrate that it is unnecessary or else, at the very least, there should be clear guidance and support on when and how to take the measures forward.

Further national research and guidance would help ensure that there is a coordinated approach to limiting the numbers of second homes and holiday lets. As Local Development Plans take several years to prepare, changes could be implemented more quickly if the Welsh Government issued clear statements, for example in the form of changes to PPW or letters to Chief Planning Officers, which could be used as a material consideration in the

planning process. This would enable local planning authorities to develop, and implement, interim local policies on second homes and holiday lets without having to wait for the adoption of their next Local Development Plan. Without clear national guidance on the criteria and threshold for refusing a planning application for a second home or short-term holiday let, there is a risk that such decisions will be open to challenge.

**Q10: Do the proposed amendments to PPW support the proposed amendments to the:  Town and Country Planning (Use Classes) Order 1987 (UCO); and  Town and Country Planning (General Permitted Development) Order 1995 (GPDO)?**

Yes, but as set out above, the proposed amendments are too weak and need to be strengthened. In addition, the new paragraph should be amended to state that restricting a main home to a permanent home for local residents is also an option, where appropriate.

**Q11: Do you consider the potential positive consequences of the proposed planning measures for the management of second homes and short-term holiday lets outweigh the potential negative consequences (or vice versa) regarding house prices and the impact on the local housing market? Please explain your response, with reference to evidence where appropriate.**

The potential consequences need to be considered in the context of other measures that could be used such as increased council tax for second, third etc homes, local occupancy restrictions being placed on new build homes, and identifying opportunities to place local occupancy restrictions on existing properties when they are sold. Although it is very difficult to predict the impact of any of these proposed measures, it is very clear that changes are needed to address the negative impacts of high levels of second homes and holiday lets. As we have already highlighted, we are concerned about the potential for displacement impacts resulting in areas not controlled by Article 4 Directions coming under greater pressure from second homes and holiday accommodation. It is therefore essential that there is thorough monitoring of the impacts where such Article 4 Directions are introduced in order to quickly identify and plan for any unintended consequences.

**Q12: Do you have any comments or evidence about the potential consequences, both positive and / or negative, the proposed planning measures for the management of second homes and short-term holiday lets may have for local economies?**

We do not have any specific evidence of our own on this. However, we believe it is important to consider the impacts of second homes and holiday lets separately as it should not be assumed that they have the same impacts on the local economy, facilities, communities, culture and language.

**Q13 applicable to local planning authorities only: Do you consider that local planning authorities have sufficient resources to undertake an appropriate level of evidence gathering, monitoring and enforcement for the effective implementation of the proposed planning measures? Please explain your response, with reference to evidence where appropriate.**

We have chosen to answer this question even though we are not a local planning authority as we believe it is of wider relevance. It will take time for the proposed changes to have an effect and to see the (positive) impacts that result but that should not be a reason to delay action on this important issue. Requiring a planning fee for these applications, avoiding having to pay compensation and providing local planning authorities with the right training and support where needed will help ensure these measures can be implemented effectively.

**Q14 applicable to local planning authorities only: □ What IT (back-office) system is currently used (including version number)? □ What are your contractual arrangements (i.e. costs) for making changes as a result of a Welsh Government legislative change? □ How long would it take to implement changes to your IT system? □ What is the expiration date of your current contract with your IT system supplier? □ How much staff time is required (per application) to manually enter applications into your back-office system where it cannot be automatically received?**

No comment.

**Q15: We would like to know your views on the effects of the proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?**

The Welsh language is an important consideration in terms of the current impacts of second homes and short-term holiday lets and in evaluating the desired and actual outcomes of these proposals. We believe that the proposals are likely to have a significant net positive impact on the use of the Welsh language in a number of areas of Wales which currently have high or rapidly increasing levels of second homes and/or holiday lets.

**Q16: We have asked a number of specific consultation questions. If you have any related issues which we have not specifically addressed, please use the space below to raise them.**

**Support for the Welsh Government’s “three-pronged approach”:** We believe that the complexity of tackling these issues requires multi-faceted solutions. Changes to planning law need to be accompanied by the introduction of a statutory registration scheme for holiday accommodation. These are both part of the second prong of the Welsh Government’s “three-pronged approach”. These changes to the regulatory framework and system need to be progressed alongside addressing affordability and availability of housing (the first prong) and using national and local taxation systems to ensure second homeowners make a fair and effective contribution to the communities in which they buy (the third prong)

**Evidencing occupancy:** There is an opportunity to learn from measures that have been used to monitor local occupancy or primary/principal residence restrictions elsewhere. For example, following requests from the community, the Lake District National Park Authority has recently begun using a local occupancy map as a tool for local people to help enforce restrictions as they are easily able to identify which properties are subject to them and can then report any concerns over potential breaches:

<https://www.lakedistrict.gov.uk/planning/applicationsanddecisions/occupancy-restriction-webmap>

**Local occupancy restrictions:** Changes are needed to ensure that existing properties with local occupancy restrictions are not lost to the open market. For example, there is a need for stricter rules on removing occupancy restrictions and it should be clear that properties with local occupancy conditions cannot be converted to second homes or holiday lets through either permitted development or a planning application. There is an issue that if a local person in a given area moves out of a non-restricted property into a property with local occupancy restrictions, the property they are leaving, which had by default previously housed a local person, is then free to be sold unrestricted and potentially as a second home, meaning no net benefit has been achieved in applying the restriction to the new build. In the Lake District National Park, this issue has contributed to a reduction in the permanent

population of the Park even during a time when the NPA was exceeding its housing targets and restricting the occupancy of all new builds in the year's immediately prior to the adoption of its current Local Plan.

**Empty homes:** Another issue that has a significant impact on the availability of homes for local residents is the large number of properties which are left completely unoccupied. Council tax data suggests that there are now around 25,700 empty homes across Wales compared to around 24,900 second homes<sup>1</sup>. We urge Welsh Government to take further action to bring these empty homes back into use alongside new measures to address high levels of second homes and short-term holiday lets.

For further information about any aspect of this response, please contact Ruth Bradshaw, Policy and Research Manager, Campaign for National Parks (email: [ruthb@cnp.org.uk](mailto:ruthb@cnp.org.uk)) or David Archer, Cynghrair dros Dirluniau Dynodedig Cymru Alliance for Welsh designated Landscapes (email [archer@capelbach.plus.com](mailto:archer@capelbach.plus.com)).

---

<sup>1</sup> Chargeable empty and second homes, by local authority (number of dwellings) (gov.wales) (figures used are for 2020-21)