

COMMITTEE	COMMUNITIES SCRUTINY COMMITTEE
DATE	11 June 2026
TITLE	Article 4 Direction
REASON FOR SCRUTINY	Council Plan 2023-2028 – a Homely Gwynedd
AUTHOR	Gareth Jones – Assistant Head of Environment Department Iwan Evans – Head of Legal Services
CABINET MEMBER	Councillor Craig Ab Iago

1. Why does it need to be scrutinised?

- 1.1 The Committee considered a report on the public engagement relating to the introduction of an Article 4 Direction to manage the change of use from primary residences to second homes or short-term holiday accommodation at its meeting on 16 May 2024. The Cabinet confirmed the Direction on 16 July 2024. The Article 4 Direction came into force on 1 September 2024.
- 1.2 Following a successful judicial review, the Direction was quashed by the High Court in 2025, meaning that the Direction is no longer in effect.
- 1.3 Scrutinising the position in relation to the now-quashed Direction, including the legal background as well as the next steps, will enable the Committee to ensure that all matters associated with this issue are given full consideration.

2. What exactly needs to be scrutinised?

- Decision-making process on the introduction of an Article 4 Direction (**paragraph 4.5 – 4.13**)
- Legal background (**paragraph 4.14 – 4.32**)
- What has been learned? (**paragraph 4.42 - 4.44**)
- What are the next steps? (**Section 5**)

3. Summary and the Key Issues

- a. This paper provides relevant background and contextual information to enable essential scrutiny of the statutory processes undertaken in association with the introduction and confirmation of the Article 4 Direction.
- b. The nature and scope of the legal challenge submitted following the Cabinet's decision to confirm the Article 4 Direction is outlined, including an overview of the legal grounds associated with the challenge. Furthermore, it also provides further information and a more detailed analysis of the grounds that were subject to the successful legal challenge, namely the principle of material change of use.

4. Background

- 4.1 Between summer 2023 and summer 2024, Cyngor Gwynedd implemented the necessary steps to introduce an Article 4 Direction for the Gwynedd Local Planning Authority Area. The purpose of the Article 4 Direction was to revoke permitted development rights to change of use of a residential house (C3 use class) to holiday use, whether it was to be used as a second home (C5 use class), short-term holiday accommodation (C6 use class) or a mixed use of these classes (use classes C3, C5 and C6).
- 4.2 A public engagement period relating to the Article 4 Direction Notice was held between 2 August and 13 September 2023. Undertaking the engagement period was a statutory requirement as set in the Town and Country Planning (Permitted General Development) Order 2022 (as amended). After considering the representations received during the engagement period, the Cyngor Gwynedd Cabinet decided to confirm the Article 4 Direction on 16 July 2024, with the Article 4 Direction becoming operational from 1 September 2024 onwards.
- 4.3 Following the Cabinet's decision to confirm the Article 4 Direction, an application was submitted to the High Court to challenge the decision through a Judicial Review. Permission was granted to conduct the Judicial Review, and the hearing was held on 23 June 2025. The formal order in relation to the Judicial Review was received on 27 November 2025. The outcome of the order was to revoke the decision of the Cyngor Gwynedd Cabinet (16 July 2024) to confirm the Article 4 Direction.
- 4.4 The Council's oral request which was submitted to the judge in the case for permission to appeal the decision was refused, and a written application to appeal to the Court of Appeal was therefore prepared. On 6 February 2026, a ruling was received from the Court of Appeal, refusing the right to appeal. After this ruling was received, the procedures of the legal case ended, meaning that the Article 4 Direction was no longer operational within the Gwynedd Local Planning Authority area.

The decision-making process on the introduction of an Article 4 Direction

- 4.5 Cyngor Gwynedd has been proactive in its commitment to address the side-effects deriving from having a high number or concentration of second homes and/or self-catering holiday accommodation within some of the county's communities, as set out within the Council Plan priority area, a homely Gwynedd..
- 4.6 In 2020, a report prepared at the request of the Council's Cabinet was submitted to the Welsh Government, calling for the introduction of regulatory measures within the holiday accommodation and second homes sector, including a specific control mechanism within the planning system. This work highlighted the Council's commitment to responding to the challenge at both a national and local level.
- 4.7 Following the submission of this report, the Welsh Government published its three-pronged approach to address the impacts of holiday homes. This approach involved changes within the planning system, including the introduction of new use classes for self-catering holiday accommodation and second homes.
- 4.8 Following legislative changes to the Planning system in October 2022 came the opportunity to implement a planning mechanism (Article 4 Direction) which enabled the Council to require planning permission before it would be possible to undertake a **material change of use** of a dwelling house into self-catering holiday accommodation and/or second home.

- 4.9 The process of introducing an Article 4 Direction is laid out in the Town and Country (Permitted General Development) Planning Order 2022 (as amended)¹. In 2023, the Cyngor Gwynedd Cabinet decided to follow the route of introducing an Article 4 Direction (non-immediate effect), resulting in the need to introduce a 12-month notice period before implementing the Article 4 Direction.
- 4.10 In accordance with the relevant legislative requirements, after serving notice of the Article 4 Direction and conducting an associated engagement period, a report was submitted to a meeting of the Cyngor Gwynedd Cabinet on 16 July 2024, asking them to consider the representations received during the public engagement period and confirm the Article 4 Direction to be operational from 1 September 2024 onwards.
- 4.11 The Article 4 Direction meant that the permitted development rights for the following **material changes of use** were revoked:
- Main residence (use class C3) into a second home (use class C5) or short-term holiday accommodation (use class C6) and specific mixed uses;
 - Second home (use class C5) to short-term holiday accommodation (use class C6) and specific mixed uses;
 - Short-term holiday accommodation (use class C6) to a second home (use class C5) and specific mixed uses.
- 4.12 If the Article 4 Direction had not been introduced, it would be possible to change between the new use classes without the need to obtain planning permission, as the change of use would constitute permitted development rights, which is the current situation.
- 4.13 The following table gives a brief overview of the steps associated with the introduction of the Article 4 Direction (now revoked):-

	Explanation	Date
Step 1:	Gather evidence and prepare a justification paper	End of 2022 up to May 2023
Step 2:	Approve the making of the Article 4 Direction, issue a notice and conduct an associated engagement period.	23 June 2023
Step 3	Conduct the public engagement period	2 August 2023 to 13 September 2023
Step 5	Confirm the Article 4 Direction	16 July 2024
Step 6:	Article 4 Direction operational	1 September 2024

Table 1: Process of introducing the Article 4 Direction and associated timetable

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

The Legal background

4.14 The main steps associated with the legal challenge are highlighted below:-

	Explanation	Date	Relevant documents
Stage 1:	Court receives an application to conduct a Judicial Review of the Cyngor Gwynedd Cabinet's decision to confirm the Article 4 Direction. 5 grounds for the appeal were submitted.	August 2024	Background documentation, see appendix 1a to 1ch
Stage 2:	Papers for the written application for a Judicial Review refused	7 November 2024	-
Stage 3:	Oral hearing on the application to conduct a Judicial Review	17 December 2024	-
Stage 4:	Permission granted to conduct a Judicial Review based on ground 1 only , and the 4 other grounds were disregarded.	27 February 2025	Ruling, see Appendix 2
Stage 5:	Substantive hearing held.	23 June 2025	-
Stage 6:	Ruling associated with the Substantive Hearing received	24 September 2025	Ruling, see Appendix 3
Stage 7:	Order received from the High Court, revoking the Cyngor Gwynedd Cabinet's decision (16 July 2024), to confirm the Article 4 Direction.	27 November 2025	-
Stage 8:	Cyngor Gwynedd makes and application to appeal the High Court decision.	18 December 2025	
Stage 9:	Court of Appeal's decision to refuse the written application to appeal the decision of the High Court is received.	6 February 2026	-

Table 2: Stages of the legal challenge

4.15 As has been outlined in the table above, following the Cabinet's decision on 16 July 2024, to confirm the Article 4 Direction, an application was submitted to the Court by Enlli Angharad Williams (the claimant) to hold a judicial review of the decision to confirm it (**Stage 1**).

4.16 When applying to conduct a judicial review, the claimant is required to obtain the court's permission to continue with the application. The original application to hold a judicial review argued five grounds. Detailed information on the grounds can be found in the ruling (Appendix 2); they are summarised as follows: -

Ground 1: That the Council had misunderstood the amendments to the planning procedure in 2022 and had failed to consider the possibility for new holiday homes (be they in use class C5 or use class C6) despite the direction.

Ground 2: The Council was misdirected or had misunderstood the impact of the direction on providing affordable housing.

Ground 3: The Council unlawfully failed to consider the relevant planning policy of promoting and supporting holiday accommodation.

Ground 4: The Council failed to consider evidence regarding the current use of the Welsh language.

Ground 5: That the Council misinterpreted national policy that makes it a requirement to test exceptional circumstances when justifying the removal of general permitted development rights.

4.17 A judge (His Honour Judge Jarman KC) considered the written application on 7 November 2024, and permission was refused to continue on the five grounds (**Stage 2**). The claimant implemented their right to make an application to have their application reconsidered orally. A hearing (oral) was held by The Honourable Mr Justice Pepperall on 17 December 2024 (**Stage 3**) with the ruling received on 27 February 2025 (Appendix 2). Permission was granted by the Honourable Mr Justice Pepperall to hold a judicial review on **Ground 1 only** (see above); all remaining grounds were dismissed (**Stage 4**).

4.18 The main argument of ground 1 is that the Council failed to appreciate that planning consent is only needed for **material changes of use**, and therefore it would not have the effect of preventing every change of use revoked by the Article 4 Direction.

4.19 The evidence submitted to support ground 1 on behalf of the claimant included: -

- Cabinet Report (meeting on 16 July 2024) (see appendix 1a).
- Public Engagement Report (see appendix 1b)
- Equality Impact Assessment (see appendix 1c), and
- The public notice (draft) (see appendix 1ch).

4.20 It was argued that the guidance in these documents was incorrect or misleading in relation to section 55 and section 57 of the Town and Country Planning Act 1990 as it was only **material change of use**, and not necessarily every change of use that required planning permission. Therefore, it would not be possible for the Article 4 Direction to prevent every change of use between the relevant use classes, as the claimant alleged, in the way that the Council had believed.

4.21 In his ruling that gave the permission to undertake the legal challenge (see Appendix 2), the judge referred to the case of Moore v. the Secretary of State for Communities and Local Government [2012], which included information in terms of the relevant considerations when determining whether the change of use of a main residence (use class C3) into short-term accommodation is a material change of use and therefore requires planning permission. The case states:-

“Starting from first principles, without the assistance of any authority, whether the use of a dwellinghouse for commercial letting as holiday accommodation amounts to a material change of use will be a question of fact and degree in each case, and the answer will depend upon the particular characteristics of the use as holiday accommodation. Neither of the two extreme propositions - that using a dwellinghouse for commercial holiday lettings will always amount to a material change of use, or that use of a dwellinghouse for commercial holiday lettings can never amount to a change of use - is correct.”

- 4.22 The Judge (The Honourable Mr Justice Pepperall) accepted that the changes to planning legislation in 2022 may not control changes of use completely from C3 or C5 into C6 or mixed use as materiality is a matter of fact and degree and it was concluded that it was *“...properly arguable that the Cabinet was misled as to the law and therefore as to the efficacy of the Direction”*.
- 4.23 A substantive hearing was held on 23 June 2025 in the High Court before The Honourable Mr Justice Eyre. The ruling associated with the case was received on 24 September 2025 (see Appendix 3).
- 4.24 During the subsequent hearing on 27 November 2025, and following his earlier judgment, the judge (Mr Justice Eyre) made an order to quash Cyngor Gwynedd Cabinet’s decision of 16 July 2024 to confirm the Article 4 Direction

Conclusions of the ruling on 25 September 2025 (Appendix 3)

- 4.25 The judge (Justice Eyre), in his ruling to revoke the Cabinet's decision to confirm the Article 4 Direction, highlighted that the main consideration of the case was whether the members who made the decision to confirm the Article 4 Direction (i.e. the Cabinet), had been materially misled on matters that could have influenced their decision to such an extent so that the decision may have been different were it not for the advice.
- 4.26 The ruling provided a detailed analysis of the legal definition of development, along with the relevant considerations arising in relation to material change of use.
- 4.27 The Judge (Justice Eyre) considered that it would not be reasonable to expect members of the Cabinet to possess the same level of understanding of the planning system compared to members of the Planning Committee, for example. Consequently, it was not possible to take for granted that Cabinet Members understood the concept of materiality in the context of material change of use, unless this matter had been explained to them clearly and specifically. Furthermore, it is questioned whether Cabinet members would have read all material submitted to them thoroughly, considering the demands on their time. It was noted that the members did not need a thorough understanding, however, they would have been expected to know what the nature and impact of the decision being made was, which meant that they needed to be reminded, in simple terms, of the impact of the Article 4 Direction practically in the context of the changes of use that may or may not be affected.
- 4.28 After reviewing the documents submitted to the Cabinet, the judge (Justice Eyre) found that the documentation submitted strongly suggested that the Article 4 Direction would control every change of use; furthermore, reference was made to the fact that the only reference to material change of use that was in the Engagement Report under heading 34, which was towards the end of the document.

- 4.29 What the judge was asked to consider was whether it was **highly likely** that the Cabinet would have made a different decision. The judge accepted that it was **likely** the Cabinet's decision would not have been different if the report had explained the point about material change of use. However, he did not consider it to be **highly likely**.
- 4.30 It was concluded that the Cabinet members had been materially misled and thus, in a subsequent hearing on 27 November 2025, an order was made for the decision to confirm the Article 4 Direction to be revoked.

Subsequent legal action - Council's application to appeal the decision

- 4.31 The Council made a written application for permission to appeal the decision to the Court of Appeal on two grounds (**Stage 8**), this application was refused by the Right Honourable Justice Lewisam on 6 February 2026 (**Stage 9**). The judge found that reports presented to the Cabinet were expected to fully explain the implications of the decision, and also found that although it was **likely** the Cabinet would have made the same decision, it was not **highly likely**
- 4.32 Following the ruling to refuse permission to appeal the decision, the legal procedures associated with the Article 4 Direction ended, which meant that the Article 4 Direction confirmed by Cyngor Gwynedd Cabinet on 16 July 2026 had been definitively revoked, and therefore it is no longer in effect in the Gwynedd Planning Authority Area.

What is 'Material Change of Use'?

- 4.33 As highlighted above, the ground of the successful legal challenge was based on the background documentation (appendices 1a to 1ch) not explaining that planning permission would only need to be obtained for **material changes of use**, following the implementation of the Article 4 Direction.
- 4.34 Planning consent must be obtained to undertake development. The definition of 'development' is set out in section 55 of the Town and Country Planning Act 1990 (TCPA) and includes undertaking a material change of use.
- 4.35 The Town and Country Planning (Use Classes) Order 1987 (UCO)², as amended, places the use of land and buildings in different categories known as 'use classes'. Changes of use within a specific use class is not development and therefore does not require planning consent.
- 4.36 The Town and Country Planning (General Permitted Development) Order 1995 (the GPDO)³, permits some specific changes of use between the specified use classes (permitted development rights). Permitted development rights are developments that can be undertaken without the need to apply for planning consent, as it is already applied within the GPDO. Excluding the general changes permitted within the GPDO, in general, planning consent will be required for other material changes of use between the specified use classes.

² Town and Country (General Permitted Development) Planning Order 2002 (as amended)

³ Town and Country (Use Classes) Permitted Order 2022 (as amended)

- 4.37 What constitutes a **material change of use** is not defined. Determining whether a material change of use has occurred, and therefore whether planning permission is required, is a matter of fact and degree for the relevant planning authority to consider on a case-by-case basis. Among the factors likely to be relevant in determining whether a proposed development (specifically holiday accommodation/second homes) amounts to a **material change of use** are the frequency, scale, or intensity of the use.
- 4.38 The term "change of use" is often used as a short-hand form for "material change of use", including in legislation and national policy. To this end, it was not considered that using the "change of use" turn of phrase, instead of "material change of use" when presenting background information associated with justifying the introduction of the Article 4 Direction, was in any way unusual or misleading. For example, the legislation that provides permitted development rights to change between these use classes, i.e., Class I of the Town and Country (General Permitted Development) Planning Order 1995 (GPDO), refers to "change of use" instead of "material change of use":-

“Class I

I. Permitted development

Development consisting of a change of use of a building—

- 4.39 Furthermore, when referring to the principle of introducing an Article 4 Direction, Planning Policy Wales notes as follows:-

*4.2.10 Where robust local evidence has identified impacts on the community arising from the prevalence of second homes and short-term lets, planning authorities may consider co-ordinated local planning approaches. This may include specifically identifying sites in development plans for new homes which are limited in use to sole or main residences or local market housing (see paragraph 4.2.9) and/or the introduction of area specific Article 4 directions which may require a planning application for a **change of use** [emphasis added] of a sole or main residence to a second home or short-term let. For the specific area to which such an Article 4 direction applies, restrictions by condition or obligation should be placed on all new homes limiting their use to sole or main residences. Further guidance on the use of Article 4 directions, planning conditions and obligations is provided in the Development Management Manual.*

- 4.40 It is further noted that the Engagement Report submitted to the Cabinet to assist them to make their decision associated with confirming the Article 4 Direction, included an explanation of when planning consent would have to be sought to undertake material changes of use. This was specifically in response to a representation received (Theme 34) during the period of public engagement relating to the 'Impact of the Article 4 Direction'. It was considered that this extract proved the officers' understanding in relation to materiality and provided an explanation to the Cabinet during the confirmation process.

The principle of material change of use in practical terms

- 4.41 In order to ensure an understanding of what constitutes material change of use and when planning consent would be needed, or not, some practical examples have been provided below. It is emphasised that every case would have to be dealt with individually and based on its own merits and associated facts.

Example 1: Using a property that is currently used as a main residence (C3) as short-term holiday accommodation (C6) for a one-off weekend because of a local event.

Guidance: Unlikely to be a material change of use as the use would only be a one-off. Any disturbance would be restricted to a short time only.

Example 2: Using a residential house (use class C3) as short-term holiday accommodation (C6) use regularly (with no other use in the meantime).

Guidance: Because of the frequency, use density and long-term intent, it is considered that this type of use would be a material change of use and that planning consent would have to be obtained in order to undertake this use.

Example 3: Using a residential house (Use Class C3) as a second home (Use Class C5) for occasional family use, where their main residence is in another house.

Guidance: This change of use is likely to be a material change of use as it is a permanent change and as the residential unit would no longer be used for main residence use.

What has been learned?

- 4.42 As highlighted in paragraphs 4.8 – 4.10, following amendments to the relevant legislation, Cyngor Gwynedd was the first Local Planning Authority to act on the changes by introducing an Article 4 Direction. Although guidance regarding the required process associated with preparing and approving an Article 4 Direction exists, there is a lack of detailed guidance on the evidence that should be gathered in order to justify the introduction of an Article 4 Direction, particularly given the wide geographical area concerned.
- 4.43 At every stage of the process, the risks associated with being the first to introduce an Article 4 Direction following the legislative changes were identified, including the risk of legal challenge. These risks are considered, as far as possible to have been managed throughout the process.
- 4.44 Cyngor Gwynedd has developed and nurtured specific skills and expertise within this area of work, and as a result has been able to share experiences and documentation with other authorities, including Eryri National Park. Sharing resources, background evidence and lessons with other authorities formed part of the terms agreed with the Welsh Government for their financial support. The skills and expertise developed through the process of preparing the Article 4 Direction have been extremely valuable, and are transferable to other relevant projects in the future.

How much has Article 4 cost the Council so far? How has the cost been funded?

- 4.45 Unavoidably, there were financial costs and staff resource pressures associated with the process of introducing the Article 4 Direction. These resource (financial and staffing) implications were carefully considered as part of the initial discussions before deciding to proceed and prepare the Article 4 Direction. In order to ensure that the Council had adequate resources to prepare and implement the Article 4 Direction successfully, a grant of £402,330 was secured from Welsh Government, with the Council contributing match funding of £400,000 through one-off revenue funding.
- 4.46 Since April 2023, the process has cost a total of £465,654.63 to date, and it has been funded as follows:
- £311,683.05 funded through the Welsh Government Article 4 Grant
 - £153,971.58 funded through the Council's one-off revenue funding

As a result, a sum of £336,675.37 remains in the fund at present.

- 4.47 The costs associated with the Article 4 Direction have included staffing costs (£325,618.94), administrating the process (£59,961.69), and legal costs (£80,074.00).
- 4.48 It is emphasised that this funding has been an investment that has contributed to developing the Council's understanding of the steps associated with the process of introducing an Article 4 Direction. In addition, it has led to the creation of a practical framework (including report templates, public notices, letters, etc.), which can be amended and re-used in the future.

5. Next Steps

- 5.1 Following the Court of Appeal's refusal of permission to appeal the High Court ruling, careful consideration will need to be given to potential future implementation options. In doing so, it is important to be mindful of the Council's commitment to address the housing crisis facing the county, the need to protect the communities of Gwynedd and ensure that the residents of Gwynedd have a fair chance to live in the county. The Council will also need to consider the contextual changes that have occurred in the meantime which are relevant to second homes and holiday accommodation, such as changes to the taxation framework, the Development of Tourism and Regulation of Visitor Accommodation (Wales) Bill, and the Visitor Levy.
- 5.2 It should also be noted that there has been a change in Government, with Plaid Cymru's priorities including a review of the *effectiveness of the existing measures relating to second homes and holiday lets*. The Council will need to closely monitor developments in this regard. Furthermore, the Council Plan continues to identify the management of second homes and short-term holiday accommodation as a priority.
- 5.3 As noted, achieving control in this area remains a priority for the Council. However, a number of contextual changes require further consideration before any decisions can be made regarding the way forward. Due to the need to give full consideration to the matters set out above, and to avoid the risk of waiving legal privilege, it is premature to confirm any timetable for the next steps at this stage.
- 5.4 It is emphasised that, despite the challenges and disappointment associated with the quashing of the Article 4 Direction, it is also important to note that the legal challenge was not granted permission on the basis of any fundamental failure relating to the process of its preparation or the justification for it.

6. Additional Questions

- What is the difference between the direction that was in place in Gwynedd and the direction that is in place in the Eryri Snowdonia National Park Authority area?

The Article 4 Direction prepared and approved by Cyngor Gwynedd applies only to the Gwynedd Local Planning Authority area.

The permitted development rights removed within the Eryri National Park Article 4 Direction correspond with those removed by Cyngor Gwynedd.

- What difference/similarity was there in terms of the decision process by the Council and the Park?

The process of making and confirming the Article 4 Direction was carried out in accordance with Cyngor Gwynedd's constitutional arrangements.

Eryri National Park began the process of preparing an Article 4 Direction after Cyngor Gwynedd, which meant they were able to draw on Gwynedd Council's reporting provisions, including the basis of the legal challenge

- How much has Article 4 cost the Council so far? How has the cost been funded?

See paragraph 4.45 – 4.48

- What considerations were taken into account when coming to a conclusion on the next steps?

See section 5

- What's the timetable?

In line with the issues set out in section 5 this is to be decided.

- What is the intention in terms of engaging and getting public opinion?

This will be undertaken in accordance with statutory requirements

- In order to dispel myths and ensure accurate information, is it intended to include responses to public objections e.g. impact on property value, as part of the engagement?

Any engagement will be carried out in accordance with statutory requirements. During the engagement process on the Article 4 Direction (now revoked) , all comments received were reported in a comprehensive Engagement Report. The report included the Council's detailed responses those comments. (see Appendix 1b)

7. Consultation

Not applicable to this report. It is emphasised that extensive engagement was undertaken as part of the process of preparing and confirming the Article 4 Direction (now revoked), and the Public Engagement Report produced following the engagement period is included at Appendix 1b.

8. Well-being of Future Generations (Wales) Act 2015

Not applicable to this report. The Well-being of Future Generations (Wales) Act 2015 was given full consideration in the preparation and implementation of the Article 4 Direction. See appendix 1a – Cabinet Report

9. Impact on Equality Characteristics, the Welsh Language and the Socio-economic Duty

Not applicable to this report. An impact assessment was prepared as part of the introduction of the Article 4 Direction and can be viewed in Appendix 1c.

10. What will happen next?

1.10 The next steps are subject to further discussions, taking into account other relevant changes that may have an impact. Appropriate reporting arrangements will be put in place accordingly.

Appendices

Appendix 1: Background information

Appendix 1a: Cabinet Report (meeting on 16 July 2024)

Appendix 1b: Public Engagement Report

Appendix 1c: Equality Impact Assessment, and

Appendix 1ch: The public notice (draft)

Appendix 2: Ruling on the application to conduct a Judicial Review (oral hearing)

Appendix 3: Ruling on the Judicial Review (substantive hearing)