

NPA 669/24

NEW FOREST NATIONAL PARK AUTHORITY

AUTHORITY MEETING – 25 JANUARY 2024

CONFIRMATION OF ARTICLE 4 (1) DIRECTION – TEMPORARY CAMPSITES

Report by: Steve Avery, Executive Director (Strategy and Planning)

1. Introduction

- 1.1 Members will recall that at the end of July 2023, the Government introduced a new stand-alone permitted development right (PDR) that allows the temporary use of land as a 'pop up' campsite for 60 days in any one calendar year, with the number of pitches being capped at 50.
- 1.2 In response, at the Authority meeting last September (AM 658/23), members authorised the Executive Director to make a new and immediate Article 4 (1) Direction to remove these new permitted development rights for:
 - (i) the temporary use of land as a recreational campsite in excess of 28 days (for those sites existing on or before 1 March 2020); and
 - (ii) the temporary use of land as a recreational campsite for all new sites established after 1 March 2020.
- 1.3 An immediate Article 4 (1) Direction was made on 17 October 2023, a copy of which is attached as Annex 1. Whilst the Direction came into immediate effect, there is still a requirement to carry out a public consultation and the Direction will lapse after six months (i.e. on 17 April 2024) unless it is confirmed beforehand.
- 1.4 A five-week consultation commenced on 27 October 2023, running to 1 December 2023. The legal requirements for consultation were met, with relevant consultees directly notified and notices placed within the National Park. This report sets out the response to that consultation and asks members to confirm the Article 4 (1) Direction having considered the response to the consultation. At the same time, the accompanying guidance note for campsite operators (agreed in March 2022) has been updated to reflect the new PDR and the new Article 4 (1) Direction.

2. Consultation on the Article 4 (1) Direction (Autumn 2023)

- 2.1 We received 128 responses to the consultation, with 92% of all respondents supporting the Article 4 (1) Direction. This is higher than the previous consultation on the earlier Article 4 Direction (Autumn 2021) when 99 responses were received with 71% in support.
- 2.2 As before there was a broad range of respondents, including eight parish councils within the National Park; a number of key stakeholders; local residents; and existing campsite operators. A summary of the representations received and our response to these representations are set out in the table below:

Summary of consultation responses	National Park Authority response
<p>Object to allowing more temporary campsites in the New Forest – they cause numerous detrimental impacts on local communities, as well as the flora and fauna of the New Forest. All campsites – whether permanent or temporary – should require planning permission in such an environmentally sensitive area.</p>	<p>The new immediate Article 4 Direction issued by the Authority in Autumn 2023 was made to safeguard the amenity of local communities and to protect the landscape and internationally designated habitats of the New Forest National Park.</p>
<p>There is a loophole and way to circumvent the Article 4 by obtaining an Exemption Certificate from Natural England and rely on Class C of Part 5 to carry out camping rallies. The Article 4 should be amended to state that under Class C those organisations that have set up post-March 2020 and obtained Exemption Certificates after that date will not be able to rely on Class C but must obtain planning permission.</p>	<p>The new immediate Article 4 Direction issued in Autumn 2023 focuses specifically on the new Class BC of Part 4, Schedule 2. Class C of Part 5 is the national permitted development right that enables allows land to be used as a camping site for tents where an organisation holds a certificate of exemption under the Public Health Act 1936. There are specific eligibility criteria for an exemption. It is considered unreasonable to remove Class C rights across the National Park from bodies like the Camping & Caravanning Club, the Guide Association, the Salvation Army and the YHA. However, consideration will be given to site-specific Directions where there is clear evidence of harm.</p>
<p>Do not support the Authority's attempts to block pop up campsites. These types of sites are generally smaller, independent sites which cater for campers wishing to enjoy the countryside camping experience. The 2-month pop up campsites are basic and this is reflected in their charges. These sites also support local small farms or businesses. The Government's aim is to simplify red tape and cut down on paperwork, which is to be welcomed.</p>	<p>The new Article 4 Direction does not 'block' pop up campsites. Instead, it means that greater planning controls will be introduced for certain campsites within the National Park. The NPPG guidance on 'When is permission required?' confirms, "An article 4 direction only means that a particular development cannot be carried out under permitted development and therefore needs a planning application. This gives a local planning authority the opportunity to consider a proposal in more detail."</p>
<p>The Sandford Principle means that conservation and enhancement of the landscape and wildlife of the New Forest legally takes priority over enjoyment by the public. The Article 4 Direction is consistent with this long-established principle.</p>	<p>Agreed. The National Parks & Access to the Countryside Act 1949 confirms that relevant authorities should attach greater weight to the purpose of 'conserving and enhancing' if it appears there is a conflict between the two National Park purposes. This is reiterated in the extant National Parks Circular (2010).</p>

<p>Pleased that the National Park Authority has acted so quickly and decisively to protect the New Forest from the inevitable consequences of the extended Class BC Permitted Development Rights. Support its implementation and robust enforcement.</p>	<p>Support welcomed. The Authority issued a new immediate Article 4 Direction in Autumn 2023 specifically in response to the new national permitted development rights introduced in Summer 2023.</p>
<p>Pop up campsites have a habit of turning into semi-permanent campsites, complete with semi-permanent caravans, and this is then followed by applications to build 'luxury lodges' which get sold off for vast sums of money as holiday/weekend accommodation.</p>	<p>The national Permitted Development Rights introduced in Summer 2023 do not permit caravans – such a use would require planning permission. The Authority must be notified in writing of the landowner's intention to use the new permitted development rights, provided with a site plan and the dates during which the campsite will be in use.</p>
<p>The existing Article 4 Direction was supported by the Secretary of State. The new legislation introduced in Summer 2023 negates the existing Article 4 Direction and removes the ability of the NPA to regulate camping. National Park status offers special protection and it is important that this is maintained, rather than being eroded by new legislation.</p>	<p>The National Park Authority issued a new immediate Article 4 Direction in Autumn 2023 specifically in response to the new national permitted development rights introduced in Summer 2023. The Secretary of State has not intervened in the process for confirming the new Article 4 Direction.</p>
<p>By allowing unrestricted camping you are inflating agricultural land out of the reach of the farming and commoning communities. Please make it a requirement for planning permission to be sought. This way it can be discussed at a planning meeting where the local community can have the opportunity speak about concerns.</p>	<p>National permitted development rights are created by the Government, not local planning authorities (i.e. the NPA). The Article 4 Direction will bring some campsites under greater planning control and enable interested parties to comment on proposals.</p>
<p>Permitted Development Rights for temporary campsites must only be available to bona fide commoners and farmers. Applicants must make their living from farming and have appropriate DEFRA registrations to be eligible.</p>	<p>National permitted development rights generally run with land, rather than specific landowners. The extended national permitted development rights created in July 2023 apply across the whole of England and mean that anyone who owns land could use it for temporary camping for up to 60 days without planning permission, subject to various conditions. The national permitted development rights for camping are not limited to specific agricultural holdings.</p>

2.3 Members will recall that there is a legal requirement to notify the Secretary of State of the Article 4 Direction. The Secretary of State has the power to modify or cancel an Article 4 Direction, but there is no requirement for the Secretary of State to formally approve the Direction. The Government was directly notified of the Article 4 Direction as part of the consultation launched in October 2023 and we submitted further supporting information to the Department for Levelling Up, Housing & Communities in November 2023. The Government confirmed they will only contact the Authority if any additional information is required; and that we should continue with the process of introducing the Article 4 Direction. In the absence of any further response from the Department, we are proceeding on the basis that the Secretary of State does not intend to intervene.

3. Process for making an Article 4 (1) Direction

3.1 Given the overwhelming majority of responses to the public consultation support the introduction of the new Article 4 Direction, allied to the response that the Secretary of State appears content to leave the decision to the Authority, this report recommends the formal confirmation of the Direction.

3.2 Once the Article 4 Direction has been confirmed, the Authority is required to give notice of the confirmation in the same way as it gave notice of the initial Direction last October (including public notices in local newspapers, notices posted at locations across the National Park, and copies of the Direction being sent to statutory consultees), specifying the date that the Direction came into force. A copy of the Article 4 Direction as confirmed must also be sent to the Secretary of State.

4. Accompanying planning guidance

4.1 The Authority approved and published a Planning Guidance Note in March 2022 to assist applicants when applying for planning permission for temporary camping uses caught by the Article 4 Direction. In light of the provisions of the new permitted development right and new Article 4 Direction, the Guidance Note has been updated as attached as Annex 2.

4.2 As before, it is important to stress that the adopted National Park Local Plan remains the primary consideration for decisions on future planning applications for campsite use. The Local Plan includes policies on general development principles (Policy DP2); impacts on the natural environment (Policies SP5 and SP6); landscape character (Policy SP7); campsites (Policy DP47); and the land-based economy (Policy SP48).

4.3 The principles of the earlier guidance note remain unchanged and are based on the following considerations:

- The guidance cannot create new policy, which would need to be subject to public consultation and, in the case of development plan policy, independent examination. The guidance in Annex 2 is therefore consistent with the principles established in the adopted Local Plan policies on farm diversification (policies SP46 and SP48), development close to designated habitats (policies SP5 and SP6), and the protection of the tranquillity of the National Park (policy SP15).
- The National Park is already well provided for in terms of visitor accommodation in general, and campsite provision in particular. The New Forest has more than three times the number of camping and touring caravan bed spaces per square kilometre than the average of all other English national parks. In considering applications for

temporary campsite use, the Authority's position is clear that permission will not be granted for longer than the maximum days per annum that national permitted development rights would allow (which has now been increased from 28 to 60). However, the guidance is clear (at 3.9) that the Authority will not support any new temporary campsites (established post 1 March 2020) or extensions to existing sites (i.e. 28 days to 60 days) within 400 metres of the New Forest's internationally designated sites due to concerns over impacts on site integrity.

- To ensure compliance with the Habitats Regulations, applications will need to demonstrate mitigation for nutrients affecting either the Solent or River Avon designated sites; and address recreational pressures on the New Forest designated sites. The Authority produced guidance on these matters in May 2021 for campsite operators – available online. The need to demonstrate compliance with the Habitats Regulations applies whether proposals require planning permission or not.

5. Conclusions

- 5.1 National policy recognises Article 4 Directions as a legitimate tool available to authorities to protect local amenity. Our adopted Local Plan (2019) confirms that consideration would be given to the use of an Article 4 Direction to ensure temporary campsites are properly planned. It is clear from the consultation undertaken in Autumn 2023 that there is strong support for the Direction.
- 5.2 Given that national permitted development rights apply Park-wide (and reports of detrimental impacts from temporary campsites have been received from residents across the National Park), it is logical that the Article 4 Direction is applied Park-wide.

Recommendation:

Members:

- (i) confirm the Article 4 Direction as attached at Annex 1; and
- (ii) approve the updated planning guidance note as attached at Annex 2

Contact: Steve Avery, Executive Director (Strategy & Planning)
steve.avery@newforestnpa.gov.uk, 01590 646659

Papers: AM 669/24 – cover paper
AM 658/23
AM 624/22
AM 613/22
AM 583/21

Annex 1 – The Article 4(1) Direction

Annex 2 – The updated planning guidance note (January 2024)

Equality Impact Assessment: The use of an Article 4 Direction is enabled through planning legislation and policy to protect the amenity of an area and ensure the impacts of development are fully considered through the planning application process. The Article 4 Direction has been the subject of a public consultation which has enabled all those with an interest in the area to be engaged in a democratic process.