

Cranborne Chase and West Wiltshire Downs AONB Partnership

Guide to Permitted Development Rights

Final Report

March 2006

Entec UK Limited

Report for

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Certificate No. EMS 69090



Certificate No. FS 13881

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1. Guide to Permitted Development

1.1 Aim of the Guide

The aim of this guide is to outline the scope, operation and process for exercising permitted development rights (PDR) as set out in the Town and Country Planning (General Permitted Development) Order 1995 (the GPDO) and to explore the potential impacts of these rights being exercised within Cranborne Chase and West Wiltshire Downs AONB. Following some background notes on the implementation of PDR, the guide uses the following questions to explore the nature of PDR and its application within an AONB.

- What is ‘development’? (**Section 1.3**)
- Where does PDR apply? (**Section 1.4**)
- Who are the key players? (**Section 1.5**)
- What is the process for implementing PDR? (**Section 1.6**)
- Can PDR be suspended? (**Section 1.7**)
- What is the significance of AONB status in the PDR process? (**Section 1.8**)
- What are the potential implications of the exercise of PDR in an AONB? (**Section 1.9**)

1.2 Background

The basis of operation of the statutory planning system in the UK is set out in the Town and Country Planning Act 1990 (the 1990 Act), as amended by the Planning and Compensation Act 2004. Land-use planning decisions are made by the respective local planning authority on anything considered to constitute ‘development’ as defined in the Act.

If a proposal is considered as constituting development, then it requires planning permission and an application needs to be submitted for determination by the local planning authority. However, in certain cases, developments such as minor householder extensions and agricultural operations are allowed to go ahead without the need to submit a planning application because they are afforded ‘**permitted development rights**’ (PDR) under the Town and Country Planning (General Permitted Development) Order 1995 (the GPDO). In such cases, planning permission is deemed to have been granted (subject to certain parameters and conditions).

The point of affording PDR is to prevent the development control system becoming overburdened with determining seemingly minor developments. This is also seen as important in terms of reducing the regulatory burden on householders, businesses and others. The extent to

which the use of PDR detrimentally impacts on sensitive landscapes such as AONBs needs to be examined, particularly given recent controversies over the use of agricultural PDR.¹

The most recent review of PDR was carried out in 2003 by Nathaniel Lichfield in association with SJ Berwin Solicitors² on behalf of the Office of the Deputy Prime Minister (ODPM) (the Lichfield Report). This comprehensive review highlighted a number of issues in the application and interpretation of the GPDO which are referred to in this guide.

It is important to note that this guide to PDR examines just one element of the wider town and country planning system and other legislation relevant to development. As well as the requirements relating to planning applications and land use planning policy there are other consents/approvals with further regulations under planning or other legislation which have links to the implementation of PDR. For example,:

- Listed Buildings;
- Conservation Areas;
- Trees and Tree Preservation Orders (TPOs);
- Building Regulations;
- Rights of Way; and
- Advertising.

Although these other issues are not examined in this guide to PDR, it is important to acknowledge the links under the umbrella of the wider statutory planning system. Although a development may be afforded PDR under the GPDO, an individual/organisation may need to apply for other consents/approvals under one of these other areas (for example, Building Regulations Approval).

1.3 What is development?

One of the major determinants of whether or not a proposal falls under planning control, and thus requires planning permission, is whether or not it constitutes 'development'. Under sec.55 (1A) of the 1990 Act, development is defined as:

*“the carrying out of **building, mining or other operations** in, on, over or under land, or the making of any **material change in the use** of any buildings or other land”*

¹ Such as for polytunnel developments in Herefordshire (within the Wye Valley AONB). Under PDR large scale polytunnel development occurred with significant impacts on the visual quality of the AONB.

² Review of Permitted Development Rights, 2003, ODPM: London
<http://www.odpm.gov.uk/index.asp?id=1145828>

It is useful to break this definition of development down into two parts: firstly building, mining or other operations and secondly a material change of use. These two elements of the definition are examined in turn.

1.3.1 What constitutes a ‘building, mining or other operation’?

Under the 1990 Act building operations include: **demolition** of buildings, **rebuilding**, **structural alterations** or **additions** to a building and other operations normally undertaken by a builder.

Maintenance work or improvements to the interior of a building or that do not materially effect the external appearance of a building are not considered as constituting development under the Act.

Building operations or operational development are considered with respect to three main tests. These are summarised in the box below as considerations of whether something is a ‘building’ and whether a ‘building operation’/‘operational development’ has taken place:

Size	A building is normally something that is constructed on-site as opposed to being brought ready made.
Permanence	A building is denoted by a physical change of some permanence.
Physical attachment	This is seen as inconclusive in itself, but can influence the other two factors one way or the other (through the existence of foundations, for example).

Mining involves operations ‘in, on, over or under land’ and therefore constitutes development under the provisions of the Act. This includes all quarrying, gravel extraction, open cast operations and the reclamation of minerals from tips.

Engineering is also considered as constituting development where such activities alter the profile of land by excavation, embanking or tipping. It also applies to activities that change the character of the surface of the land (i.e. laying hardstanding).

Other operations refers to alterations that do not necessarily fit well within the categories of building, mining or engineering and the category is rarely called into use.

1.3.2 What is a ‘material change of use’?

The making of any ‘material’ change of use of any buildings or other land is also considered as development. This is often a difficult area for interpretation and specific advice needs to be sought over individual cases. However, the 1990 Act states that the following do not constitute a material change of use:

- The use of buildings or other land within the curtilage of a dwelling for any purposes incidental to the enjoyment of the dwelling.
- The use of land for the purposes of agriculture and forestry.
- Uses falling within the same class as set out in the Town and Country Planning Use Classes Order (1987) as amended in 2005³ (the Use Classes Order).

³ Adding a further 3 Use Classes: A3 Restaurants and Cafes, A4 Drinking Establishments and A5 Hot Food Takeaway.

The following are specifically included as a material change of use in the 1990 Act:

- Use a previously single dwelling as two or more dwellings.
- The deposit of refuse or waste materials on land.

The Use Classes Order, as amended, groups land uses into various classes for planning purposes. Any change of use from one Use Class to another is considered development as a material change of use, however PDR is afforded to certain changes of use (see **Table 1.1** and **Appendix A2**). The 14 Use Classes are as follows:

A1 Shops: Shops, post offices, travel agents, hairdressers, funeral directors, dry cleaners.

A2 Financial and professional services: Banks, building societies, betting offices, and other financial and professional services.

A3 Restaurants and Cafes: Use for the sale of food and drink for consumption on the premises.

A4: Drinking Establishments: Use as a public house, wine bar or other drinking establishment.

A5: Hot Food Take Aways: Use for the sale of hot food for consumption off the premises.

B1 Business: Offices, research and development, light industry appropriate in a residential area.

B2 General industrial

B8 Storage and distribution: Including open air storage.

C1 Hotels: Hotels, boarding and guest houses where no significant element of care is provided.

C2 Residential institutions: Residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres.

C3 Dwelling houses: Family houses, or houses occupied by up to six residents living together as a single household, including a household where care is provided for residents.

D1 Non-residential institutions: Surgeries, nurseries, day centres, schools, art galleries, museums, libraries, halls, churches.

D2 Assembly and leisure: Cinemas, concert halls, bingo and dance halls, casinos, swimming baths, skating rinks, gymnasiums or sports arenas (except for motor sports, or where firearms are used).

Not in any use class (*Sui Generis*): For example, retail warehouse clubs, amusement arcades, launderettes, petrol filling stations, taxi businesses, car/vehicle hire and selling displaying of motor vehicles, nightclubs, theatres, hostels, builders yards and garden centres.

1.3.3 Summary

There are therefore two parts to determining development: whether it is building operation and/or whether it is a material change of use. Once determined, if the proposal is considered development then the statutory planning system set out in the 1990 Act applies. Under this system, the development will require planning permission, typically requiring the submission of a planning application for determination by the relevant local planning authority. As discussed in the introduction however, for certain developments (often smaller, typically consisting of extensions and minor alterations to buildings) permission is deemed to be granted consent (subject to certain parameters and conditions) under the provisions of the GPDO.

1.4 Where do Permitted Development Rights apply?

For the purposes of this guide, permitted development rights are broken down into six main categories, based on the respective elements of the GPDO (listed under 'Schedule 2' of the Order).

- Residential, minor operations and changes of use;
- Temporary uses and caravans;
- Agriculture and forestry;
- Industrial/commercial;
- Public or service authority developments; and
- Miscellaneous developments

Table 1.1 summarises Schedule 2 of the GPDO in terms of the broad scope of what is covered. It should be used as a reference point for the GPDO itself – the PDR described are not intended to be exhaustive and should be seen as an overview of the types of development allowed under the GPDO.

Table 1.1 should also be used as a reference point for the rest of this guide, with references to more details on the criteria and scope pertaining to particular types of development in **Appendix A** and in respect of consultation requirements (**Table 1.3**) and restrictions to PDR in AONBs (**Table 1.4**).

Table 1.1 Summary Tables of PDR afforded under Schedule 2 of GPDO

Type of Development	Part of Schedule 2	What are PDR afforded to?
Residential, Minor Operations, Change of Use (Parts 1-3).		
Residential Appendix A1	Part 1	Extensions, improvements or alterations to a dwelling within prescribed limits. PDR for other uses associated with dwelling. Note: extent of PDR amended if in an AONB (see Table 1.4)
Minor operations Appendix A1	Part 2	Fences, walls, means of access to private highway and painting.
Change of use Appendix A2	Part 3	Certain changes of use within the same class (see notes on Use Classes Order, Section 1.3.2).
Temporary Uses and Caravans (Parts 4 & 5)		
Temporary buildings and uses Appendix A3	Part 4	Moveable structures on land temporarily associated with development operations or use of land for no more than 28 days per year (e.g. for a market)

Type of Development	Part of Schedule 2	What are PDR afforded to?
Caravan sites Appendix A3	Part 5	Mainly temporary use of land for caravans and related infrastructure typically for up to 28 days at any one time.
Agriculture and Forestry (Parts 6 & 7).		
Agriculture Appendix A3	Part 6	Certain agricultural related developments, including extensions to buildings, on units of more than 5ha with more limited PDR on units less than 5ha. Note: consultation required for certain PDR (see Table 1.3)
Forestry Appendix A3	Part 7	Range of developments reasonably necessary for the purposes of forestry and afforestation (i.e. extensions to forestry buildings and private ways). Note: consultation required for certain PDR (see Table 1.3)
Industrial/commercial (Part 8)		
Industrial and warehouse development	Part 8	Extensions/alterations to premises, development carried out for the purposes of an industrial process and the deposit of waste. Note: extent of PDR amended if in an AONB (see Table 1.4)
Public or Service Authority Developments (Parts 9-18)		
Repairs to unadopted streets and private ways	Part 9	Street repairs, maintenance or improvement.
Repairs to services	Part 10	Inspecting, repairing or renewing any sewer, main, pipe, cable or other apparatus.
Development under private or local acts	Part 11	Development authorised by a local or private Act of Parliament. Note: consultation required for certain PDR (see Table 1.3)
Development by local authorities	Part 12	Rights for the erection/alteration of small ancillary building, lamp standards, kiosks, passenger shelter, waste bins etc. Also the deposit of waste.
Development by Local Highway Authorities	Part 13	Maintenance/improvement of the highway or required for/incidental to this.
Development by Drainage Authorities	Part 14	Development in connection with the improvement, maintenance or repair of the watercourse or associated works.
Development by Environment Agency	Part 15	Development by the Environment Agency for the purposes of their functions relating to flood protection and maintenance of water courses.
Development on behalf of Sewerage Undertakers	Part 16	Development on behalf of Sewerage Undertakers including provision, improvement and maintenance of sewers.
Development by Statutory Undertakers	Part 17	Certain developments by railway undertakers, gas suppliers, electricity suppliers etc in relation to their operations. Note: consultation required for certain PDR (see Table 1.3) Note: extent of PDR amended if in an AONB (see Table 1.4)
Aviation development	Part 18	7 Classes permitting certain developments by an airport authority.
Mining and mineral extraction	Parts 19, 20, 21, 22 & 23	Certain operations associated with the use of land as a mine including erection, extension, rearrangement, replacement of any plant or machinery. Also relates to the removal of any material. Note: consultation required for certain PDR (see Table 1.3)

Type of Development	Part of Schedule 2	What are PDR afforded to?
		Note: extent of PDR amended if in an AONB (see Table 1.4)
Miscellaneous Developments (Parts 24-33)		
Telecommunications Appendix A4	Parts 24 & 25	Certain telecommunications developments (installation, alteration, replacement of telecoms apparatus for example). No PD for a mast over 15 metres in height. Note: extent of PDR amended if in an AONB (see Table 1.4)
Development by Historic Buildings and Monuments Commission for England	Part 26	The maintenance, repair or restoration of any building or monument and other works.
Use by members of certain recreational organisations	Part 27	The use of land by members of a recreational organisation for the purposes of recreation.
Development at amusement parks	Part 28	The erection, alteration or replacement of booths or stalls or the installation of plant or machinery to be used for or in connection with entertainment of the public within an amusement park.
Driver information systems	Part 29	The installation, alteration or replacement of system apparatus by or on behalf of a driver information system operator.
Toll road facilities	Part 30	The setting up and the maintenance, improvement or other alteration of facilities for the collection of tolls and the provision of a hard surface to be used for the parking of vehicles in connection with such facilities. Note: consultation required for certain PDR (see Table 1.3)
Demolition of buildings	Part 31	Any operation consisting of the demolition of a building or any part of a gate, wall or fence or other means of enclosure. Note: consultation required for certain PDR (see Table 1.3)
Schools, colleges, universities and hospitals	Part 32	The erection at any school, college, university or hospital of any building required for use as part of or incidental to such a use. Note: extent of PDR amended if in an AONB (see Table 1.4)
Closed circuit television cameras	Part 33	The installation, alteration or replacement on a building of closed circuit television (CCTV) camera to be used for security purposes.

1.4.1 Caveats to PDR Listed in Table 1.1

Table 1.1 should be used as a reference point to Schedule 2 of the GPDO. This Schedule has a much greater level of detail on what is and is not permitted development, and the parameters and conditions that are attached.

It is also important to note that PDR is removed (under Article 3 of the GPDO) for any proposal that is significant in terms of the potential for environmental impacts as defined in the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999⁴.

1.5 Who are the key players?

As demonstrated in **Table 1.1**, PDR covers a range of land users, from the individual householder, farmer and business to a local authority. Anyone with an interest in a particular land and property can implement PDR. **Table 1.2** provides a breakdown of the key players by type of development.

Table 1.2 Key Players Implementing PDR

Category of PD	Key Players
Residential, minor operations and changes of use	Householders, businesses and others.
Temporary uses and caravans	Businesses and individuals
Agriculture and forestry	Farmers and forestry companies, including Forest Enterprise
Industrial and commercial	Businesses
Public or Service Authority Developments	Local authority, Highways Agency, Environment Agency etc.
Miscellaneous Developments	Telecommunications companies, businesses, individuals, schools, colleges, universities and hospitals.
Note: this list is not exhaustive, merely providing an indication of the key players exercising PDR.	

1.6 What is the process for implementing PDR?

1.6.1 Consultation with the local planning authority: Prior Notification and Prior Approval

If development is deemed to be granted PDR under the GPDO then in most cases the individual/organisation can go ahead and implement their proposals without any requirements to notify or consult with the local planning authority. In certain instances though, consultation is required with the local planning authority; most commonly in the form of prior notification to determine whether or not prior approval is required on the siting, design and external appearance of the proposed development. Such instances are noted in **Table 1.3**.

⁴ These Regulations define Schedules of development where an environmental impact assessment (EIA) of the potential impacts is required. In such instances an Environmental Statement is typically required to support the planning application submitted.

Table 1.3 Consultation requirements set in GPDO

Part of GPDO Schedule 2	Consultation requirement
Agriculture (Part 6)	<ul style="list-style-type: none"> ▪ Prior notification is required for certain types of development in order for the local planning authority to determine whether or not prior approval is required for siting, design and external appearance in the case of buildings, means of construction in the case of private ways and appearance in the case of fish tanks (cages). The types of development where notification is required are: <ol style="list-style-type: none"> 1. For proposals in National Parks or the Broads (Article 1(6) Land) where the following is proposed: <ul style="list-style-type: none"> ○ Erection, extension or alteration of a building ○ Formation/alteration of a private way. ○ Carrying out of certain excavations/waste deposits (which exceed 0.5ha in area). ○ Placing or assembly of any tank or cage for use in fish farming in any water. 2. For all extensions or alterations to buildings deemed 'significant' – significant defined as any extension/alteration increasing by 10% the cubic content or height of the original building. ▪ Once notified, the local planning authority has 28 days to make a decision on whether prior approval is required on siting, design and external appearance. If prior approval is required, the local planning authority then have 8 weeks to approve/refuse the development once the details have been submitted for approval. ▪ It is important to note here that the notification requirements described above do not relate to AONBs or Conservation Areas as Article 1(5) Land. The consultation requirements would only be engaged in other land (i.e. in an AONB) for extensions of more than 10% cubic content/height of the original building.
Forestry (Part 7)	<ul style="list-style-type: none"> ▪ Prior notification is required for certain types of development in order for the local planning authority to determine whether or not prior approval is required for siting, design and external appearance in the case of buildings, means of construction in the case of private ways and appearance in the case of fish tanks (cages). ▪ Developments where prior approval is required: <ul style="list-style-type: none"> ○ Erection, extension or alteration of a building (all erections, but where extension/alteration adds 10% or more cubic content to the original building). ○ Formation/alteration of a private way (i.e. a forestry road). ▪ Once notified, the local planning authority has 28 days to make a decision on whether prior approval is required on siting, design and external appearance. If prior approval is required, the local planning authority then have 8 weeks to approve/refuse the development once the details have been submitted for approval.
Private or Local Acts (Part 11)	<ul style="list-style-type: none"> ▪ Prior approval of the appropriate authority required of detailed plans and specifications where proposals include the formation, laying out or alteration of a means of access to any highway used by vehicular traffic.
Statutory undertakers – Gas Suppliers (Part 17)	<ul style="list-style-type: none"> ▪ Prior notification required for notifiable pipelines – the gas supplier should notify the local planning authority in writing of their intentions, identifying the land under which the pipe-line is to be laid. ▪ Prior approval from the relevant planning authority is required for the design and external appearance of any buildings (PDR exist solely for the erection of buildings to protect plant or machinery).

Part of GPDO Schedule 2	Consultation requirement
Electricity undertakings (Part 17)	<ul style="list-style-type: none"> ▪ Prior approval from the relevant planning authority is required for the design and external appearance of any buildings, reconstruction/alteration of buildings (where its external appearance would be 'materially' affected) or where the installation, addition/modification of any plant or machinery.
Aviation development (Part 18)	<ul style="list-style-type: none"> ▪ Developer required to consult the local planning authority before implementing their PDR – except where a development is urgently required for the efficient running of an airport or it consists of works/ancillary buildings no more than 4m in height or 200 cubic metres in capacity.
Development ancillary to mining (Part 19)	<ul style="list-style-type: none"> ▪ Prior approval required from the mineral planning authority for PDR relating to the erection, installation, extension, rearrangement, replacement or alteration of any plant or machinery, buildings or structures/erections.
Coal mining (Part 20)	<ul style="list-style-type: none"> ▪ Prior approval required from the mineral planning authority for any development required for the purposes of a mine which is carried out on an authorised site at that mine by a licensed operator in connection with coal-mining operations.
Mineral Exploration (Part 22)	<ul style="list-style-type: none"> ▪ There is a requirement for 28 days prior notification to the minerals planning authority specifying the nature and location of development (applies to PDR covering the drilling of boreholes, seismic surveys and other excavations for six months or more).
Removal of material from deposits/stockpiles (Part 23)	<ul style="list-style-type: none"> ▪ Prior written notification is required of the intention to carry out the development with details supplied (to the minerals planning authority). Where details are required, this should include a plan showing the exact location of the deposit and details of the access.
Telecommunications Code Operators (Part 24)	<ul style="list-style-type: none"> ▪ A number of forms of telecommunications development which are permitted under Part 24 of the GPDO are subject to a 56-day prior approval procedure under paragraph A.2(4) of Part 24. This procedure applies to the construction, installation, alteration or replacement (unless in an emergency) of: <ul style="list-style-type: none"> (i) a ground based mast of up to and including 15 metres in height; (ii) a mast of up to and including 15m in height installed on a building or structure; (iii) an antenna (including any supporting structure) which exceeds the height of the building or structure (other than a mast) by 4 metres or more at the point where it is installed or to be installed; (iv) a public call box; (v) radio equipment housing with a volume in excess of 2.5 cubic metres; (vi) development ancillary to radio equipment housing (e.g. fences, access roads); (vii) Class A development on Article 1(5) land or an SSSI which has not been excluded by paragraph A.1.
Toll Road (Part 30)	<ul style="list-style-type: none"> ▪ In the case of Article 1(5) land prior approval may be required in relation to the siting, design and physical appearance of the facilities afforded PDR under this part of the Order.
Demolition of buildings (Part 31)	<ul style="list-style-type: none"> ▪ Prior notification of the intention to demolish must be given to the local planning authority where the works involve a dwelling, building adjoining a dwelling or building last used as a dwelling. NOTE: Demolition of Listed Buildings or buildings in Conservation Areas requires consent from the local planning authority and is outside the scope of the GPDO.

1.7 Can PDR be Suspended?

The GPDO provides the opportunity for PDR to be suspended by local planning authorities in certain circumstances through use of an **Article 4 Direction**. If PDR is suspended then the applicant will be required to submit a planning application as they would with any other form of development falling outside the scope of the GPDO.

1.7.1 Implementing an Article 4 Direction

Where a local planning authority considers that an area would benefit from tighter controls over development than is provided under the GPDO, they can make Article 4 Directions. An Article 4 Direction removes PDR so that types of development listed within the Direction will require the submission of a planning application and the granting of planning permission by the local planning authority. A direction can apply to any part or class of PDR listed in the GPDO. Typically these are known as **Article 4(1) Directions** and they require approval from the Secretary of State.

Where areas of local heritage value require a higher level of protection in a Conservation Area, the local planning authority can make an **Article 4(2) Direction**. Directions under Article 4(2) can only be made in respect of houses within Conservation Areas and do not require the Secretary of State's approval. The aim of an Article 4(2) Direction is to encourage the retention of high quality architectural features on buildings and to preserve and enhance the conservation area of which they are part. 'Like for like' repairs and reinstatement of architectural features will be encouraged, along with the removal of previously unsympathetic changes to buildings.

1.7.2 Issues in the application of Article 4 Directions

In practice Article 4 Directions are typically not being used by local planning authorities, who generally perceive them to be too complex and expensive to implement. The findings of the Lichfield Report (p.268) reinforce this, stating:

*“...over one third of local planning authorities **did not consider Article 4 procedures worked well** and 40% of respondents had either not used them, or used them very rarely. Other stakeholders expressed few views on their use but most responses indicated that more use should be made of them but that fear of compensation was deterring this. Article 4 procedures are widely regarded by local planning authorities as a **cumbersome and resource-intensive** control tool, of limited value where quick action is needed and with several other factors deterring wider use, such as the requirement to obtain approval from the Secretary of State (for Article 4(1) Directions) and compensation liability. Such problems could be partly reduced by best practice guidance on making Article 4 applications, and a simplified procedure would help. Extending the ability to apply Article 4 Directions outside conservation areas without the Secretary of State's approval may encourage wider use of this tool, but would reduce existing checks and balances.”* (Emphasis added)

In considering whether to grant planning permission, the fact the PDR rights will exist as a result of the development (for example, to extend the new development in the future), may also

be in the mind of decision makers. Article 4 Directions - as discussed in this section - could be used, however, alternatively, a planning condition could be applied to the planning permission for the development, removing or amending any subsequent PDR associated with it. However, Government guidance states that a use of planning conditions in this way should only be used in exceptional circumstances (Circular 11/95).

1.7.3 Local Development Orders

It is important to note that in some circumstances PDR can actually be extended by the use of a Local Development Order. A Local Development Order is made by a planning authority in order to extend permitted rights for certain forms of development, with regard to a relevant local development document (see Planning Policy Statement 12: Local Development Frameworks for more detail (PPS12)). Local Development Orders cannot be used to restrict or remove PDR however.

1.8 What is the significance of AONB status in the PDR process?

In addition to the consultation requirements required for certain PDR (Table 1.3), the GPDO also restricts the extent of PDR or removes it altogether for certain types of development if it is within an AONB, Conservation Area or National Park (referred to as Article 1(5) land). The restrictions which apply by Part of GPDO are broken down in Table 1.4, with further context to these provisions provided in Appendix A.

Table 1.4 Restrictions on PDR in AONBs, Conservation Areas and National Parks

Part of GPDO Schedule 2	Consideration of AONB, Conservation Area or National Park Status (Article 1(5) Land)
<p>Residential (Part 1)</p> <p>See Appendix A for more detail on the original scope of PDR.</p>	<ul style="list-style-type: none"> ▪ PDR for extensions to dwellings in AONBs, Conservation Areas or National Parks reduced to 50 cubic metres or 10% of the original dwelling. ▪ Also important to note that PDR for extensions are not afforded to Listed Buildings (see NOTE 1). ▪ PDR for cladding any part of the exterior to a dwelling with stone, timber, plastic or tiles removed if the dwelling is in an AONB, Conservation Area or National Park (pebble dashing does not constitute cladding in Case Law). ▪ PDR for enlarging a dwelling through alterations to a roof revoked in AONBs, Conservation Areas and National Parks, excepting rooflights, unless they protrude above the highest part of the roof. ▪ PDR for satellite antenna amended if in AONB, Conservation Area and National Park – not permitted if on a chimney, on a building more than 15 metres high or on a roof slope fronting the highway. ▪ PDR for building/enclosure, swimming pool etc. incidental to a residential use amended if in an AONB, Conservation Area or National Park – development is not permitted if it is for such a development more than 10 cubic metres.
<p>Industrial & Warehouse Development</p>	<ul style="list-style-type: none"> ▪ PDR for extensions in AONBs, Conservation Areas or National Parks reduced to 10% of the original cubic content of the building or to 500 square metre floorspace of

Part of GPDO Schedule 2	Consideration of AONB, Conservation Area or National Park Status (Article 1(5) Land)
(Part 8)	the existing building.
Electricity undertakings (Part 17)	<ul style="list-style-type: none"> ▪ PDR for extensions/alterations to buildings on operational land reduced to 10% of the cubic content of the existing building or 500 square metres. ▪ PDR for the installation or replacement of any telecommunications line which connects any part of an electric line to any electric plant or building, and the installation or replacement of any support for such line removed if within an AONB, National Park or SSSI.
Mineral Exploration (Part 22)	<ul style="list-style-type: none"> ▪ PDR for mineral exploration removed if within AONB, National Park, site of archaeological interest or site of special scientific interest (SSSI).
Telecommunications Code Operators (Part 24) See Appendix A for more detail on the original scope of PDR.	<ul style="list-style-type: none"> ▪ PDR removed if in an AONB, National Park or Conservation Area for: <ul style="list-style-type: none"> (i). installation or alteration of an antenna or support apparatus (i.e. a phone mast) which includes or is intended for the support of such an antenna; or (ii) the replacement of such an antenna or such apparatus by an antenna or apparatus which differs from that which is being replaced, (Unless the development is carried out in an emergency). ▪ PDR for the installation, alteration or replacement of radio equipment housing removed in an AONB, National Park or Conservation Area if it would exceed 2 cubic metres (unless the development is carried out in an emergency).
Other Telecommunications operators (Part 25)	<ul style="list-style-type: none"> ▪ PDR removed for whole Part (i.e. for installation, alteration or replacement of any building or other structure of a height of 15 metres or more associated with microwave antenna).
Schools/hospitals (Part 32)	<ul style="list-style-type: none"> ▪ PDR amended if in an AONB, National Park or Conservation Area – the erection of a building incidental to such a use must remain of a similar appearance to the existing buildings.
<p>NOTE 1: Development affecting Listed Buildings has specific provisions under the wider Planning Act. Listed Building Consent is required in order to carry out any works to a Listed Building which will affect its special value for listing purposes. This will almost certainly be necessary for any major works, but may also be necessary for minor alterations and possibly even repairs and maintenance. Listed Building Consent may also be necessary for a change of use of the property.</p>	

1.9 What are the potential implications of the exercise of PDR in an AONB?

1.9.1 Background

This guide provides an overview of PDR in terms of the scope, key players, process for implementing PDR and the particular circumstances that can apply within an AONB. However, in practice the application of PDR can be confusing, and sometimes controversial, particularly in terms of different interpretations of the GPDO by individual Local Planning Authorities. Within designated landscapes such as AONBs there is a suggestion that the implementation of PDR can have a range of adverse impacts on the designation in terms of visual quality, character and more general impacts on the environment for example.

Issues associated with the particular Parts of the GPDO identified in **Section 1.4** with respect to the potential impacts on the AONB are examined below. This section has been informed by the contents of the Lichfield Report and the responses received from Local Planning Authorities within the AONB set out in Appendix B.

1.9.2 Residential, Minor Operations and Change of Use

For residential PDR (Part 1) the impacts of an individual extending their dwelling (i.e. in relation to one property) are seen to be low – particularly when considered against the restrictions which apply limiting PDR for extensions in AONBs than is available in other areas for example (illustrated in **Table 1.4**). The volume of such developments is likely to be high however, with many households likely to make some form of modification to their dwelling. Because the volume of such developments is likely to be high, there is the potential problem for *cumulative impacts* to the AONB, i.e. if a number of households within a particular locality implement their PDR. In this case the impacts are most likely to be on **visual quality** and/or affect the **character** of the designation. One example raised by a local planning authority is the cumulative impact of installing of rooflights and solar panels.

Similar to residential PDR, Minor Operations (Part 2) are considered as having a low impact when considered in isolation, but as they are likely to be of a high volume the potential cumulative impacts on the AONB may therefore be an issue. The implementation of Part 2 PDR can have an ‘adverse impact’ on the character of areas from front gardens being paved over and walls/fences removed⁵. The use of non-traditional materials can have significant visual impacts, such as the formation of a fence or enclosure through the use of old car tyres or a large earth embankment. Equally, the proliferation of fences relating to the subdivision of land into leisure plots (most commonly ‘horsiculture’) can be detrimental to landscape quality.

Exercising Change of Use PDR (Part 3) is unlikely to have significant impacts on the AONB given the restrictions that are in place – i.e. a change of use is only permitted within the same use class and from and to other use classes in only a small number of cases – again this is conditional and caveated by both the GPDO and Use Classes Order.

1.9.3 Temporary uses and Caravan sites

For temporary uses (Part 4), there are concerns that there is insufficient protection for protected areas from their visual impact. The issues are associated with interpretation of ‘temporary’ with some examples showing a greater degree of permanence (i.e. a car boot sale moving from field to field, but with a high frequency throughout the year). It is also noted that there are no provisions for remediation once the use has ceased. Again, the impacts on the AONB are most likely to be **visual quality** and/or affecting the **character** of the designation. For caravan sites (Part 5) there are likely to be similar issues. Only temporary caravan sites (and associated infrastructure) are permitted here, however they too can have detrimental visual impacts similar to other temporary uses – particularly where sites are high in frequency within a landscape. It is important to note that permanent caravan sites are not afforded PDR and planning permission is required.

1.9.4 Agriculture and Forestry

The issue of agricultural permitted development rights (**Part 6**) in designated landscapes such as AONBs can be contentious. This is particularly the case on land holdings of up to 5ha where ‘hobby farmers’, ‘horsiculture’ and other non-agricultural uses are perceived to be causing problems through the exercise of agricultural PDR under Part 6, despite not being engaged in

⁵ Page 54, Review of Permitted Development Rights, 2003, ODPM: London

agricultural activities. The effects are usually small scale e.g. loss of trees and hedgerows and damage to walls to create access, for example.

Prior approval for certain agricultural PDR is only required on Article 1(6) land (i.e. National Parks) and not Article 1(5) land (i.e. National Parks, AONBs and Conservation Areas). It must be stated that the issue of Part 6 rights and the impact on sensitive landscapes such as AONBs is a complex area, and an in-depth study could be done on this Part alone. In all cases prior notification is required for the extension/alteration of a building increasing the original volume/height of the building by more than 10% however.

The impacts of implementing forestry PDR (**Part 7**) are potentially high, but the likely occurrence of such operations low. The main issues for an AONB can relate to the impacts on the **visual quality** and/or **character** of the designation in terms of “*the creation of wide vehicle tracks and hardstanding areas for the extraction of timber in remote areas.*”⁶ Such developments typically require prior approval.

1.9.5 Industrial and commercial

The impact of implementing **Part 8** rights in the AONB could be an issue. The AONB is unlikely to be heavily industrialised in terms of large factories, warehouses and other premises, however small businesses and their premises will fall under this Part of the Order and the definition of industrial. As stated in Table 1.4, the PDR thresholds for extensions are reduced in an AONB, Conservation Area and National Park, however as with other PDR the potential for cumulative impacts of a number of businesses extending their premises could have an impact, especially when considered with other extensions permitted under residential PDR for example. The provision of hard standing areas for car parking or access may also have a visual impact.

1.9.6 Public or Service Authority Developments

This covers a broad range of PDR across Parts 9-18 of Schedule 2 of the GPDO. The key issues from the Lichfield report are noted below and relate mainly to the visual impact of modifying tracks and highways, as well as the impacts of mining.

A particular issue noted in the Lichfield report is landowners using PDR afforded under ‘repairs to unadopted streets and private ways’ (Part 9) instead of agricultural PDR to carry out improvement works as ‘repairs’ to private agricultural ways, therefore without having to go through the prior notification procedures set for agricultural PDR. This is seen as a problem in terms of the lack of control for local authorities in terms of design and appearance, which could have **visual impacts** on a sensitive landscape such as an AONB. The ‘tipping of waste or imported rubble’ on tracks to improve the surface under Part 9 PDR is also seen as having potential visual impacts, but also the potential for **impacting on drainage** and **water quality**. These issues are highlighted as points of information, demonstrating how the GPDO can be exploited and the level of control available reduced in certain cases.

The PDR for local highways authorities (Part 13) are seen as having **visual and character** impacts in terms of the introduction of lighting and signage in sensitive areas such as AONBs.

There are also a number of issues associated with the PDR afforded to mining and mineral extraction (Parts 19-23). These include the lack of an effective size limit on this type of

⁶ Review of Permitted Development Rights, 2003, ODPM: London

development and although in theory temporary, plant may remain on hard rock quarries for many years with severe impacts on sensitive landscapes.

1.9.7 Summary

Exercising PDR from the various Parts of the GPDO can have potentially significant impacts on the AONB. Most of these impacts are visual and will relate to the effects on the character of the landscape. All PDR will have some level of visual impact, however the severity of this impact is likely to range from minimal to significant. The issue of cumulative impacts of a number of PDRs being exercised in a locality has been raised – with particular regard to housing development. This considers the cumulative impact of developments across one part of the GPDO, however, in practice there will be a range of land uses in the AONB and the broader cumulative impacts of ALL of these individuals implementing the PDR across the 33 Parts of the GPDO needs to be acknowledged. As noted in the Section 1.2, a range of other kinds of approval are required, relating to buildings regulations, listed buildings, conservation areas, trees and advertising, each with their own set of guidelines and issues surrounding these regulations could also have impacts on the AONB.

All of these potential impacts suggest that there is a level of control afforded to PDR in AONBs, however there are some significant limitations to the control available.

Appendix A

Further Details of Permitted Development

The basic PDR afforded to the six types of development identified in the GPDO are set out in **Table 1.1**. More specific criteria are set out in the tables below in respect of:

Residential development and minor operations

Change of Use

Agriculture, forestry, caravans and temporary uses

Telecommunications (specifically masts)

These tables should be read in conjunction with **Table 1.4** which sets out for specific conditions pertaining to AONBs.

A1 Residential and Minor Operations – What is Permitted?

Category	Principal Criteria	Further Provisions
<p>Includes:</p> <p>House extensions and additions</p> <p>Conservatories and sun lounges</p> <p>Enclosing existing balconies or verandas</p> <p>Loft conversions</p> <p>Dormer windows</p> <p>Roof additions</p>	<p>Extensions up to 70m³ (or 15% whichever is the greater) if it is detached or semi-detached and outside a Conservation Area.</p> <p>If terraced and/or within an AONB or Conservation Areas, up to 50m³ (or 10% whichever is the greater).</p> <p>Up to a maximum of 115m³ in any case.</p> <p>In a Conservation Area or AONB, all additional buildings which are >10m³ wherever they are in relation to the house, are treated as extensions and reduce the allowance for further extensions.</p>	<p>Not PDR if:</p> <ul style="list-style-type: none"> ○ nearer to the road or footpath/bridleway than the nearest part of the original house, unless there is at least 20m between the house, when extended, and the road. ○ higher than the highest part of the roof of the original house. ○ over 4m high and within 2m of the property boundary. ○ result in extensions or other buildings covering more than half the area of land around the property. <p>In a Conservation Area or AONB planning permission is required for any proposal that would materially alter the shape of the roof (excepting rooflights, unless they protrude above the highest part of the roof).</p> <p>Permission is not usually required to convert a loft area into a living space.</p>
<p>Buildings and other structures on land around the house e.g. garages, garden sheds, greenhouses, summer houses, sauna cabins, swimming pools</p>	<p>No more than 4m high with a pitched roof, 3m high with a flat roof.</p> <p>Not nearer to the highway than the nearest part of the dwelling house, unless it is more than 20m away</p> <p>In a Conservation Area or AONB, all additional buildings which are >10m³ wherever they are in relation to the original house, are counted as extensions.</p>	<p>If a building is within 5m of the house, it is counted as an extension, therefore reduces permitted volume limits.</p> <p>Also applies to detached garages, even if built at the same time as the original house (defined as being as it was built or stood on 1 July 1948).</p>
<p>Porches</p>	<p>No higher than 3m</p> <p>Ground area <3m³</p> <p>At least 2m away from the boundary of a dwellinghouse with a road or a footpath.</p>	

Category	Principal Criteria	Further Provisions
Fences, walls and gates	Up to 2m high, unless adjacent to a road when it must be less than 1m high. Not a Listed Building or within the curtilage of a Listed Building.	Some areas have PDR removed specifically relating to the erection of fencing and other enclosures. In a Conservation Area, permission may be required to remove a fence, wall, gate or other enclosure.
Patios, hard standing, paths and driveways	There are no restrictions on the area of land around a dwelling which can be covered with hard surfaces at, or near, ground level. Permission is required if the hard surface is not for domestic purposes. Permission is required for a new or wider access for a driveway onto a trunk or other classified road (see Note 1).	Significant works of embankment or terracing to support a hard surface might need a planning application. An elevated patio or decking, especially if it creates a useable space underneath, might be regarded as an extension or garden building, and subject to appropriate limits.
Satellite dishes and television and radio aerials	Normal domestic TV and radio aerials do not need planning permission.	Special conditions apply for the installation of satellite dishes e.g. listed building consent is required for a Listed Building.
Decoration, repair and maintenance	Repairs or maintenance. Minor improvements, such as painting or replacing windows. Internal alterations. Insertion of windows, skylights or rooflights. Solar panels which do not project significantly beyond the existing roof slope. Re-roofing.	Bay windows are treated as an extension. Application of an Article 4 Direction can remove some of the rights opposite. Listed Buildings require listed building consent for any significant external or internal works. In a Conservation Area or AONB, permission is needed for outside cladding with stone, tiles, artificial stone, plastic or timber.
Demolition of buildings	Planning permission for a replacement does not automatically follow demolition of a building.	A planning application is not required to demolish a listed building or to demolish a building in a Conservation Area. However, listed building consent or conservation area consent might be required.

A2 Change of Use – What is Permitted?

From	To
A2 Financial and Professional Services	A1 (where there is a ground floor display window)
A3 Restaurants and Cafes	A1 or A2
A4 Drinking Establishments	A1, A2 or A3
A5 Hot Food Take Away	A1, A2 or A3
B1 Business	B8 (where no more than 235 square metres)
B2 General Industrial	B1 or B8 (B8 limited to no more than 235 square metres)
B8 Storage and Distribution	B1 (where no more than 235 square metres)

A3 Agriculture, Forestry and Temporary Uses (including caravan sites) – What is Permitted?

Category	Principal Criteria	Further Provisions
i) Temporary Use of Land	Use of land (not buildings) for any purpose (other than a caravan site) for not more than 28 days per year.	for motorcycle or car-racing and markets (including car boot sales), only 14 days a year are permitted. In SSSIs, there are no PDR for temporary uses of land for war games, clay pigeon shooting or any motorsports. See Part 4 of Schedule 2 to the GPDO
ii) Agricultural operations on units of 5ha or more (Class A)	Works for the erection, extension or alteration of a building, or any excavation or engineering operations where these are <i>reasonably necessary</i> for the purposes of agriculture within that unit.	Development under Class A is permitted subject to an extensive list of conditions including size (buildings, structures or works must not exceed 12m in height, or 3m within 3km of the perimeter of an aerodrome), ground area (must not exceed 465m ²) See Class A of Part 6 of Schedule 2 of the GPDO

Category	Principal Criteria	Further Provisions
iii) Agricultural operations on units of between 0.4ha and 5ha (Class B)	<p>Extension or alteration of an agricultural building.</p> <p>Installation of plant or machinery.</p> <p>Provision of or changes to a sewer or cable etc.</p> <p>Provision of changes to a private way.</p> <p>Creation of a hard surface.</p>	<p>Must not increase the height of the building</p> <p>Must not increase the cubic content of the original building by more than 10%</p> <p>Must not bring the ground area of the building to more than 465m²</p> <p>See Class B of Part 6 of Schedule 2 to the GPDO</p>
iv) Mineral working for agricultural purposes (Class C)	<p>Excavation is more than 25m from a trunk road</p> <p>No extracted material is moved off the agricultural unit</p>	See Class C of Part 6 of Schedule 2 to the GPDO
v) Use of land as a caravan site	<p>Stationing a single touring caravan for no more than 2 consecutive nights and for no more than 28 days a year</p> <p>Stationing of up to three caravans on a holding of at least 5 acres for no more than 28 nights in a year.</p> <p>Use as a caravan site of land occupied by an exempted organisation (e.g. Caravan Club).</p> <p>Seasonal stationing of caravans as accommodation for agricultural or forestry workers.</p> <p>Use as a caravan site for travelling showmen whilst travelling.</p>	<p>Development required by the conditions of a site license in force under the Caravan Sites and Control of Development Act 1960. Such conditions can require 'adequate sanitary facilities', services and equipment, which might include lavatory/shower/laundry blocks, roads, hardstanding, footpaths, street lighting, fire and water points, recreation areas, electrical installations and foul and surface water drainage.</p> <p>Permanent caravan sites require planning permission and caravans or mobile homes on them (i.e. park homes) do not have PDR.</p> <p>See Part 5 of Schedule 2 to the GPDO</p>
vi) Buildings for forestry purposes	Erection, extension or alteration of buildings (except dwellings) or the formation, alteration or maintenance of private ways (see Note 1), where <i>reasonably necessary for forestry purposes</i>	<p>Height of any buildings or works within 3km of an aerodrome does not exceed 3m</p> <p>Development does not take place within 25m of a trunk or classified road</p> <p>See Part 7 of Schedule 2 to the GPDO</p>
vii) Enclosure	Erection, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure	<p>Height does not exceed 1m where constructed adjacent to a highway used for vehicular traffic or 2m elsewhere</p> <p>Setting of a Listed Building is not affected</p>

Category	Principal Criteria	Further Provisions
		See Class A of Part 2 of Schedule 2 to the GPDO
viii) Recreational use of land	Recreational or instructional use by organisations such as the Scouts and Camping and Caravanning Club	See Part 27 of Schedule 2 to the GPDO

Note 1: Residential, agricultural and forestry PDR concerning new roads and means of access relate solely to private roads and **not** classified roads as defined by the Highways Agency – i.e. A, B or C roads. PDR for private (unclassified) roads relates typically to the **formation, laying out and construction of a means of access to such a highway**. For agricultural and forestry private roads they generally require prior approval. Any development creating a means of access to a classified road requires planning permission, likewise any development involving the formation of such a road. The PDR afforded to classified roads relates solely to maintenance or improvement.

It is also useful to note that highways issues in the AONB are being covered in another report entitled *Roads and Planning*.

A4 Telecommunications Masts – What is Permitted?

PDR afforded to mobile phone masts are a complex and often controversial issue, particularly with regards the prior approval process and that only siting, design and appearance can be taken into account by the local planning authority.

Masts less than 15m in height that are on the ground do not require planning permission and are afforded PDR **unless they are in an AONB, National Park or Conservation Area** (Table 1.4). However, this is conditional upon the operator making a prior approval application to the local planning authority (Table 1.3). Such an application will allow the local planning authority to consider (strictly within 56 days) the siting and appearance only of the proposed development.

Larger installations require an application for full planning permission, and these will be determined in accordance with the development plan, unless material considerations indicate otherwise. The usual time frame for planning applications apply (eight week target). Planning authorities should consider any technical constraints on the location and proposed development that may affect the operation or effectiveness of the equipment.

Appendix B

PDR issues in the AONB: questionnaire to local planning authorities

1. Are there any particular issues associated with the exercise of PDR in the AONB (e.g. inappropriate development or cumulative impact) in relation to the 6 categories identified in Schedule 2 of the GPDO?
 - Residential, minor operations and change of use
 - Temporary uses and caravans
 - Agriculture and forestry
 - Industry and commercial
 - Public or service authority developments
 - Miscellaneous developments

2. Over the past couple of years, has it been necessary for your authority to use an Article 4 Direction in the AONB? If so where and in relation to what issue?

3. Are there any other issues arising from the exercise of PDR in the AONB?

Responses

<p>North Dorset Nick Fagan</p>	<p>"The issues within Schedule 2 which have been problematic to us, both within and without the 2 AONBs, are predominantly minor operations, temporary uses and caravans, and agriculture & forestry. We have a number of Article 4's both within and without the AONBs although I cannot recall making one within the last 2 years. The issues have predominantly been the sub-division of fields into 'leisure plots' or speculative 'building' plots sold by unscrupulous speculators to unsuspecting members of the public who are given the impression that they have some development potential".</p>
<p>East Dorset Mike Hirsh</p>	<p>"We have not used an Article 4 in any part of the EDDC area of AONB since I arrived in 1987. I do not believe there has been any development that has caused particular problems in this context".</p>
<p>Salisbury District Judy Howles</p>	<p>Are there any particular issues associated with the exercise of PDR in the AONB (e.g. inappropriate development or cumulative impact) in relation to the 6 categories identified in Schedule 2 of the GPDO?</p> <p>Residential, minor operations and change of use</p> <p>Yes -A PDR to install rooflights and solar panels. The government leaflet for the public appears to permit solar panels, provided we don't think that they stick up above the roof significantly. Generally they do project above the roof line and we ask for a planning application. The cumulative effect of permitted rooflights & panels can be significant in the landscape, especially on west and south facing roof slopes where they reflect</p> <p>B Garden buildings- when a class E building becomes a class A building is confusing to the public who cannot believe they may need pp just because their shed is in excess of 10 cu m.</p> <p>C. Lack of knowledge by householders that they are in an AONB and that it carries the same restriction as conservation areas.</p> <p>Temporary uses and caravans- no AONB issues</p> <p>Agriculture and forestry - Quite large buildings can be PD. The prior notification procedure - whilst it gives the LPA control over the siting of a building and its materials is a nightmare for the layman to understand . The stance of PPS7 means that these are often granted PP to be converted to other uses too once their original purpose has gone .</p>

	<p>Industry and commercial - no AONB issues</p> <p>Public or service authority developments - no AONB issues.</p> <p>Miscellaneous developments - Telecom masts - additional equipment thereon. We have tended to remove pd for this & give temporary 10 year permissions to retain control.</p> <p>Over the past couple of years, has it been necessary for your authority to use an Article 4 Direction in the AONB? - No</p> <p>Are there any other issues arising from the exercise of PDR in the AONB? As C above.</p>
<p>West Wiltshire District</p> <p>Linda Jennings</p>	<p>The area of West Wiltshire in the AONB includes a few small villages with very limited facilities and commercial development -apart from the Center Parks and Longleat enterprises, a small out of town retail development at Crockerton and the temporary Wiltshire show operation at Pertwood Farm. As a quick response to your questions (PDR issues):</p> <p>Residential, minor ops and c/u - "change of use" from agricultural to domestic (inclusion of agric. land within domestic curtilage; use of agric buildings for domestic pastimes).</p> <p>Temporary uses and caravans - no recent evidence re caravans</p> <p>Agriculture and forestry - use of mobile chicken units; creation of farm shops ancillary to farm produce; intensification of farm shop activity; removal of mature trees; new/replacement tree planting with inappropriate species and in inappropriate patterns</p> <p>Industry and commercial - usually related to above point - traffic generation has impact on roads and verges in AONB</p> <p>Public or service authority developments - replacement sewerage facilities and water mains in the Wylve valley; creation of access routes across the countryside; siting of antennae.</p> <p>Misc developments - equine activities - use of mobile shelters</p> <p>The Council has not used Article 4 directions for many years.</p>