

Local Development Plan Policy 42 (C) Development in Retail Centres Interim Supplementary Planning Guidance

Name of Committee	Brecon Beacons National Park Authority
Date	28 May 2021
Report Author	Chris O'Brien MRTPI
Job title	Senior Policy Officer
Contact Details	christopher.obrien@beacons-npa.gov.uk
Purpose of Report	Report of consultation agreed at NPA on 12 February 2021 (Agenda Item 9/21)
Single Integrated Assessment	N/A
List of enclosures	Enclosure 1: Consultation responses received.
Public Interest Test	Not applicable.
Recommendation(s)	a) To revisit the merits of approving the draft SPG once lessons have been learned from implementing the current temporary permitted development rights as set out in Classes C–E, Part 4A of The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (Wales) Order 2021 (“the Amendment Order”).

I. Introduction

- I.1 Members may recall agreeing to consult on draft Supplementary Planning Guidance (SPG) on criterion C(ii) of LDP Policy 42 *Development in Retail Centres*. (NPA [Agenda Item 9/21](#)).
- I.2 To enable ‘temporary’ changes within retail centres, the draft SPG clarified that for 12 months from the date of final approval and subject to monitoring and review:
- A) The lack of need for retail use **would not** have to be demonstrated by applicants proposing the temporary change of use (*of no more than 12 months*) of A1 premises to alternative use(s) (*excluding C3 dwelling houses*).

B) Where an application for a permanent change of use of A1 premises is made, the National Park Authority would consider evidence of a **3-month** period of robust marketing (*to the satisfaction of the NPA*) as suitable to demonstrate that there is no longer a need for retail use in that location.

C) That such marketing could take place concurrently with any temporary use.

2. Proposals

2.1 An 8-week consultation was undertaken between 18 February and 15 April 2021 during which time the draft SPG was available on the National Park Authority's website and in libraries (when open). The consultation was advertised in the Brecon and Radnor Express on the 18 February 2021 and, letters were sent to all LDP stakeholders and a press release advertising the consultation was communicated via the authority's website and social media on 02 March 2021.

2.2 9 responses were received¹ including

- 1 supporting,
- 4 neither supporting nor objecting but making comments;
- 0 objecting; and,
- 4 responses from organisations simply stating they had no comments to make.

2.3 Matters raised include:

- The need for more holistic and radical changes to support town centres (including issues out with the direct control of the NPA such as landlord rent expectations);
- clarity over implications of the SPG for proposed changes of use from retail to residential uses;
- the need for up to date information and clear guidance on impact assessments and what is an isn't acceptable change; and,
- to recognise that material considerations may influence the determination of planning applications for proposed changes of use within retail centres.

2.4 During the consultation, the Welsh Government's Chief Planner wrote² to the National Park Authority advising of new temporary permitted development rights for temporary uses in Town Centres. Table I, over, highlights the key differences between the temporary permitted development rights and the draft SPG.

¹ Responses are available at Enclosure I.

² See: <https://gov.wales/coronavirus-covid-19-new-temporary-permitted-development-rights-support-economic-recovery-html>

Table 1. Key differences between the temporary permitted development rights and the draft SPG.

Temporary permitted development rights	Draft SPG
Apply nationally	Apply only in the Brecon Beacons National Park
Prior notification procedure	Full planning permission
For six months from the date on which the development began and must end on or before 29 April 2022.	For 12 months from adoption (subject to monitoring and review).
The use of the building may revert to the original use at any time during the six-month period.	Unless the temporary planning permission was carefully constructed, planning permission would be required to revert to the original, or another use within the period for which temporary permission was granted.
Applies to buildings within a town centre as identified in a development plan.	Applies to changes of use to the ground floor of premises in retail centres identified within the development plan.
Encompasses changes from existing: <ul style="list-style-type: none"> • Use class A1 (shops) • Use class A2 (financial and professional services) • Use class A3 (food and drink) 	Limited to changes from Class A1 (shops) only.
Excludes temporary changes of use to: <ul style="list-style-type: none"> • A3 use if it is for the sale of hot food for consumption off the premises; or, • B1(c) (i.e. for any industrial process). 	Extends to all temporary changes of uses.
Excludes all C uses.	Excludes C3 uses (dwelling houses) only
<p>No retail marketing necessary for permanent changes of use if impact demonstrated through the temporary permitted change.</p> <p>If the businesses thrive during the six-month trial period, planning permission can be sought and the local planning authority would have an evidence base from which to assess the impact of the alternative use.</p> <p>Where it has been demonstrated during the temporary period that the planning impacts are minimal, or where the impacts could be managed through conditions, sufficient weight should be given to the social, economic and broad regeneration benefits of retaining an alternative use.</p>	For permanent changes of use, a 3-month period of robust marketing (to the satisfaction of the NPA) would be needed to demonstrate that there is no longer a need for retail use in that location.
All notifications to be shared with the Welsh Government at the end of the prescribed period.	Monitoring through LDP Annual Monitoring Report.
Habitats Regulations applied through prior notification procedure.	Requires the National Park Authority to prepare a Habitats Regulations Assessment of the draft SPG and of planning applications before approving.

3. Implications

- 3.1 Given that *The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (Wales) Order 2021* (“the Amendment Order”) was brought into force on 30 April 2021 and that it temporarily takes away the need for express planning permission for many of the types of proposal that would have benefitted from the draft SPG, it appears expedient not to approve the draft SPG at this time and to reconsider its merits after 29 April 2022 (or once the temporary permitted development rights cease to have effect).
- 3.2 The temporary permitted development rights which have been introduced broadly respond to planning matters raised by the consultation responses received.
- 3.3 However, the consultation has also confirmed that a holistic and concerted effort by all stakeholders in the town centres in the National Park, through any means of ‘place-planning’ activity, is necessary.

4. Risk

- 4.1 Approving the SPG at this time could lead to local confusion over the Welsh Government’s message and support for businesses to trial alternative uses within town centres and to get initial feedback as to whether the start-up is likely to be viable without the expense and delay associated with submitting a planning application.

5 Conclusion

- 5.1 Since approving the draft SPG in February, a national approach has been introduced to address many of the same issues the SPG sought to address. It would appear expedient to revisit the merits of approving the draft SPG once lessons have been learned from implementing the current temporary permitted development rights (i.e. after 29 April 2022 or once they cease to have effect).

RECOMMENDATION(S):

- a) **To revisit the merits of approving the draft SPG once lessons have been learned from implementing the current temporary permitted development rights as set out in Classes C–E, Part 4A of The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (Wales) Order 2021 (“the Amendment Order”).**

Enclosure I. Interim SPG – Retail Cores Consultation Report

Individual / Organisation	Summary of Response
Talgarth Town Council	<p>Talgarth Town Council's concerns re this Policy document are as follows, which we would wish to be taken into consideration by the BBNPA before the final adoption of the SPG for development management purposes.</p> <ol style="list-style-type: none"> 1. Flexibility as proposed, could leave it open to abuse by a developer. Clarification on whether A1 to A3 then to C3 needs defining. 2. The flexibility of the proposed Policy could mean that vacant units are more quickly occupied. 3. The wording of the proposed Policy should explicitly prevent change of use from retail to residential without full and robust marketing, as existing. 4. The paragraph re 'Talgarth' on Page 9 needs to be revisited with a comprehensive and update of current retail premises. The current 2013 assessment is both partial and historic.
Individual	<p>The changes which have been suggested in this review seem very minor. Section 15 of the Welsh Government's Technical Advice (quoted in your report) mentions town centres as locations in which to live, so it is disappointing that you have expressly excluded residential. There are 189 shops in Brecon Town Centre, surely too many for the future. Most of the first floors of the existing shops are unoccupied. Instead of building new properties on the slopes above the town, there is scope for more residential within it. Plough Court is a good example. It is a pity that BBNP cannot influence Powys Highways, because you could be suggesting limited but effective pedestrianisation, and even a reverse direction for the traffic in the centre. By the same token, it is apparently absentee landlords that control the rent levels of town centre properties. Additionally, Rateable Values are far too high, stemming from Brecon's prosperous past. It is no wonder that small enterprises last such a short time. Footfall is insufficient to engender enough trade to finance overheads. Unless there is a concerted effort, it is difficult to envisage any material changes being likely to happen. Incidentally, I notice that the Market Hall is not included in the Retail Zone, nor Rich Way, but that the Old Library is.</p> <p>Oh for something more radical !</p>

Individual	<p>No doubt Covid-19 has had a huge impact on local businesses. However, a lot of the issues repopulating the retail on our high street existed long before the pandemic. The biggest barrier to new businesses is not flexible planning, but rather extortionate rents. An average shop in Brecon is approx £15,000 per year on a full repairing lease. Commercial property solicitors suggest this is in part caused by over ambitious investors who are not local to Wales, but rather are basing rents closer to England and areas of much higher footfall. A medium shop in Brecon should be closer in line to £8k per annum based on average footfall and the ability to generate income on that footfall. While negotiating for a premises prior to the pandemic, we learned that landlords preferred to have an empty shop for the purposes of a tax write off, which could be worth twice as much for an overpriced empty shop than a business paying a reasonable rent. Another issue we encountered was that most existing shops within the area were already struggling with rents that were set too high before the pandemic. These were shops managed by the same agent. It is difficult to start a business when the rent is already more than you can afford. We negotiated a 5 year lease that began at 10k, but rose 2k each year up to 14k, with business rates on top as it was over the 12k threshold for high street business relief. We did not sign the heads of terms as the pandemic closed everything down that week. This is much too high, even for a business with a predicted 55k annual turnover for a retail shop. Unless you sell online or sell coffee, it is next to impossible to survive on footfall alone and satisfy ambitious investors.</p> <p>There needs to be more penalty for empty shops in order to incentivise landlords to install tenants and businesses. Investors should not be able to claim a loss on an empty shop to set off profits elsewhere. There needs to be an environment where a lower rent would be more profitable/advantageous than an empty shop.</p> <p>Another local issue is the Brecon car Park near the bus stop-it does deter visitors from staying longer when they have to pay per hour. Either a one pound all day policy or free parking in the large car park should be implemented. Banks charge businesses for change, and since Covid, many businesses no longer use cash, making it more difficult for customers to pay for parking.</p> <p>The public toilets in Brecon have also been taken offline, leaving visitors less opportunity to spend more time (and money) in our town.</p>
------------	--

	We need to be inviting and convenient to visitors.
Glamorgan Gwent Archaeological Trust	None of these areas fall within the area of the BBNPA that is within our geographical remit, and we therefore have no comment to make.
The Coal Authority – Development Team	I can confirm that the Coal Authority has no specific comments to make on the Interim Supplementary Planning Guidance – Retail Core.
Avison Young on behalf of National Grid	No specific comments – happy to provide informal comments in confidence during your policy development.
The Crickhowell and District Civic Society	<p>The interim guidance is to support the building of better places following Covid 19 and the impact on our town centres.</p> <p>This document states the need for the planning system to respond to the retail situation with flexibility.</p> <p>The BBNP LDP recognises the importance of supporting strong and vibrant retail centres within the Primary Key Settlements. This could be significantly strengthened if BBNP would specify what support they can specifically provide.</p> <p>This being integral to the future viability of our rural towns and their surrounding communities, safeguarding and maintaining existing retail uses.</p> <p>Point 6 is stating to prevent change of use which would result in loss of existing retail uses, and should not impact on the retail centre. Many high street would benefit through the extension of operating hours of use beyond the</p>

normal "A1" 9.00am – 5.00pm.

The LDP currently makes a point of this , so changes of use to "A3" and "A4" which normally operate beyond these opening hours should be fully supported.

Here it is said diversity should be encouraged to address vacancy rates (and not be the cause of them)

The Wellbeing and future generations Act - to make Wakes a better place to live in ,a well being duty to achieve social ,environmental and cultural well being .

It states Placemaking ,distinctive and natural places . Retail centres to be a hub of social and economic activity - focal point for a diverse range of uses which support their local community. Providing sustainable locations to live sustaining vibrancy, viability and attractiveness. Again Class A3 and A4 establishments have a role to play in this area

It states tests for retail need and retail impact assessments so as to ensure variety ,viable go to destinations. Town centre assessments as a holistic approach are necessary.

BBNP already state that they recognise our centre is vibrant with essential services and is also an attractive destination to visitors and tourists alike . The LDP states to only allow appropriate growth and sets proposals to attract niche retail opportunities. Only allow change of use if it does not have an unacceptable impact on retail function and attractiveness of the centre ,and is there a need .

There needs to be a standardised "Retail Impact Statement" with very clear criteria of acceptable and unacceptable impacts on the high street. These statements need to be evidenced based and fully supported, or otherwise, by the community impacted by proposed changes

This document is basically stating what we believe for our town of Crickhowell . If the BBNP follow these policies it will be to the benefit of keeping an attractive go to destination ,a viable town of niche and independent businesses (which is now rarely seen in many places due to large multi national chains taking away diversity of

	<p>these small towns)</p> <p>I feel that the original LDP along the with existing Supplementary Planning Guidelines and this interim one are the ones that must be adhered to to keep the BBNP area a special and individual place to live with local businesses supporting the local economy .</p>
<p>Caerphilly County Borough Council</p>	<p>We have no comments in respect of this.</p>
<p>Natural Resources Wales</p>	<p>Introduction</p> <p>We understand that the focus of this guidance is in response to the current pandemic and the impacts that it has had upon retail centres. Much of the changes proposed within the guidance are to allow flexibility for the change of use of existing retail units within the four retail centres in Brecon Beacons National Park. This guidance proposes to reduce the requirements for marketing exercises, enabling temporary change of use of existing AI units and allowing marketing during temporary change of use is in place.</p> <p>Whilst we have no specific comments to raise regarding the principle of the interim guidance there are material considerations of which we have an interest, that may influence proposed changes of use within the retail centres.</p> <p>Flood Risk</p> <p>We note that for some of the retail core areas and for change of use proposals, flood risk will be a material planning consideration and may have implications on the proposals depending upon the nature of the change of use. Each change of use application would have to be considered on its own merits and supporting information assessed accordingly when we are consulted by your authority.</p>

Phosphate Sensitive River catchments - Special Areas of Conservation (SAC)

We note that the retail centres fall within the Special Area of Conservation (SAC) phosphate sensitive catchments. As you are aware, on the 21st January 2021, we published an evidence package outlining phosphate levels for all river SACs across Wales. As part of this package, we issued a Planning Position Statement, in which we advised that any proposed development that might increase the amount of phosphate within a river SAC catchment could lead to damaging effects to the SAC. Therefore, any change of use proposals should be screened through a Habitats Regulations Assessment (HRA), to determine whether they are likely to have a significant effect on the SAC.

Other Matters

Our comments above only relate specific matters and may not cover all those included on our checklist, *Development Planning Advisory Service: Consultation Topics* (September 2018), which is published on our website. We have not considered potential effects on other matters and do not rule out the potential for the proposed guidance to affect other interests.