

Planning Committee

26 May 2023

Agenda item number 11

Consultations from DLUHC on holiday and second homes and from DCMS on a register of short term lets

Report by Head of Planning

Summary

The Department of Levelling Up, Housing and Communities (DLUHC) is consulting on proposals to introduce planning controls on short term lets. This report sets out the proposals and proposed response.

The Department for Culture, Media and Sport (DCMS) is consulting on the details of a planned register of short term let. This report sets out the proposals and proposed response.

Recommendation

To endorse the proposed response.

1. Introduction

- 1.1. On 12 April 2023 the Department for Levelling Up, Housing and Communities (DLUHC) published a [consultation document \(www.gov.uk\)](http://www.gov.uk) setting out proposals for the introduction of a new Use Class for short term lets and a new type of permitted development right that would allow the change of use from a dwellinghouse to a short term let to provide flexibility where there are no local issues with such uses. The consultation ends on 7 June 2023.
- 1.2. At the same time, the Department for Culture, Media and Sport (DCMS) is consulting [on a registration scheme for short-term lets in England \(www.gov.uk\)](http://www.gov.uk). The consultation ends on 7 June 2023.
- 1.3. This report provides further detail on these consultations and sets out the Authority's proposed response.

2. Proposals

DLUHC consultation on short-term holiday lets

- 2.1. All types of land use are categorised into one of a number of different Use Classes, with the groupings in each Use Class based broadly on the type of activity and its impact. Land use changes within a Use Class do not need planning permission and there are permitted development rights to move between the Use Classes where the impacts are the same or less, although this change may be subject to condition, limitation or other processes. Information on the Use Classes Order can be found at [Use Classes - Change of use - Planning Portal](#)
- 2.2. Dwellings fall within the 'C3 Dwellinghouses' class in the Use Classes Order. The C3 Class makes no distinction between whether the dwellinghouse is used as a sole or main home, a second home or whether it is rented out as either a permanent, seasonal or holiday let. The consequence of this is that in many areas, properties are purchased by investors and then rented out for holiday use. A House of Commons Briefing Paper noted an estimate that 148,000 properties in England were being used for short term lettings in September 2021 via online platforms. Although this brings income and visitor spend to areas, the increase in short term visitor accommodation in the last decade has prompted concerns. The consultation document states "...high concentrations of short term lets in areas such as coastal towns, national parks and some cities is reported as impacting adversely on the availability and affordability of homes to buy or to rent for local people and on the sustainability of communities more broadly."
- 2.3. The Government considers there to be a clear rationale for introducing planning changes to provide greater control and the following is proposed:
 - a) The introduction of a new use class for short term lets. The new 'C5 Short term lets' Class would be defined as the 'use of a dwellinghouse that is not a sole or main residence for temporary sleeping accommodation for the purpose of holiday, leisure, recreation, business or other travel'. This would mean that in principle planning permission would be needed to use a dwellinghouse as a short term let;
 - b) The potential introduction of a new permitted development right to allow the change of use from a dwellinghouse to a short term let. This would override the need for planning permission (above) to change from a dwelling house to a short term let unless the Local Planning Authority (LPA) removed the permitted development rights;
 - c) The potential introduction of a new permitted development right for the change of use from a short term let to a dwellinghouse. This would mean that a short term let could revert to a main dwelling house without needing planning permission;
 - d) The introduction of a threshold or other flexible mechanism to allow homeowners to let out their home for a specified number of nights in a calendar year without needing planning permission. This could either be achieved through a further change to Class C or an additional permitted development right;
 - e) The introduction of a planning application fee for the development of new build short term lets.

- 2.4. The consultation seeks views on the above proposed changes to the Use Classes Order and permitted development rights to give planning authorities and communities greater ability to control the number of short term lets in their area. To minimise planning requirements where there is no local issue, it is proposed that the permitted development rights would apply nationally and not be subject to any limitations or conditions. This means there would be no size limits or exclusions, and the rights would apply to listed buildings and in National Parks and Areas of Outstanding Natural Beauty.

DCMS consultation on a planned register of short-term lets

- 2.5. This consultation follows a commitment by government to introduce a short-term lets registration scheme through an amendment to the Levelling-up and Regeneration Bill.
- 2.6. The consultation document states that the register of short term lets “will help to provide local planning authorities with information about which properties are being let out in their area. The objectives are to increase resources to LPAs to improve determination efficiency, thereby making the process quicker, and improve consistency and quality by introducing more streamlined and digitised process, which, again, will speed up the process. It is recognised that the issues are not solely about money, so the proposals seek to increase the number of planners (and associated professions). It is also proposed to reframe the performance assessment criteria to give a clearer indication of where there are problems.”
- 2.7. Three mechanisms are proposed to address the issues identified: financial support, additional resources and increased measurement and monitoring of performance.
- 2.8. The register is not directly relevant to the Broads Authority, as it would be managed by a third party (the Local Authority, the Tourist Board or a separate competent body), but it would be useful for all LPAs to have a role by providing information on land use.

3. Proposed response

- 3.1. The impact for the protected landscape of the Broads of the proposed changes has been considered and there has been consultation with colleagues in the National Parks. The issues are not the same, or of equal concern, for all the protected landscapes, so this assessment applies to the Broads area. A summary of the proposed response is set out below and the full questions and response attached in Appendix 1.

DLUHC consultation on short term holiday lets

- 3.2. As detailed at 2.3 above, there are five proposed changes relating to planning and they will be covered separately.

(a) A new use class for short term lets

- 3.3. The Government has recognised the potential impact of short term lets on communities and the consultation document itself states that in response to a call for evidence “many respondents felt that short-term lets had negatively impacted the social dynamics and economic trajectory of local communities, in part by limiting the available

housing stock and pricing residents out of the communities' (whilst) some councils have reported that local employers are facing difficulties filling vacancies owing to a lack of housing for local people, including in the health and education sectors. Other concerns have been raised about the increase in temporary overnight accommodation, such as on home sharing digital platforms, putting pressure on the housing rental market and, in some cases, impacts on neighbours from noise and traffic etc.". These issues and concerns will come as no surprise to Members, as they have been well documented locally, particularly in North Norfolk. The recognition by Government of the problem is both welcome and overdue.

- 3.4. The proposal to bring short term lets within planning control through the creation of a new Use Class is a welcome approach which is strongly supported. It would be a straightforward mechanism which could be used to manage the stock of an area's permanent and short term let accommodation in such a way as to best meet the needs of the communities, using existing housing needs data and the information from the proposed register of short term lets. The inclusion within the new Class C5 of existing short term lets (i.e. it would be applied retrospectively), as proposed, would be necessary, as would the register of short term lets proposed under the current DCMS consultation.
- 3.5. The current consultation does not include second homes in the proposed new Use Class. It is considered that these should be included as they also contribute to the issues that the changes seek to address. Second homes are more likely than holiday lets to be unused for long periods because they do not have the weekly turnover and, in policy terms, are the least preferred option when considering applications for new holiday accommodation. There is some concern that if second homes were to be excluded (and remain treated the same as main dwellings), this might prompt the conversion of some existing short term lets to second home use, so that the owners could continue to use them for long periods without restriction. This would undermine one of the objectives of the proposed change, however it is not considered that the risk of this is sufficient to outweigh the benefits of including second homes in the new Class.
- 3.6. The extent of short term lets across the Broads varies widely. Work done in 2015, based on Council Tax data, showed holiday and second homes accounted for 19.8% of the total housing stock in the Broads, but made up over 40% of the properties in North Norfolk, 24.7% in Broadland and 6.6% in South Norfolk. Based on national trends it is likely that these numbers are higher today.

(b) A new permitted development right to allow change from dwelling house (C3) to short term holiday let (proposed C5)

- 3.7. Whilst the proposed changes are driven by the impact of short term lets, it is the case that not all areas are affected by this issue, or affected equally, and there will be many areas nationally where short term holiday lets make a welcome contribution to the local communities and their economy. For this reason, the consultation proposes that the default position would be that a dwelling (C3) could be converted to a short term

let (C5) without needing planning permission and this would be achieved through the introduction of a new permitted development right. This would retain the status quo, unless the LPA took action to remove the permitted development rights.

- 3.8. Members will be aware that an LPA is able to remove permitted development rights through the making of an Article 4 Direction, which would apply to an identified area. The justification for this proposed new permitted development right is that if the number of short term lets in an area is having an adverse impact on that area, the LPA can remove them. The consultation states, this would “provide flexibility where short term lets are not a local issue, and areas would only see a change where the rights have been removed by making an Article 4 Direction.”
- 3.9. The rationale for this is understood, however the Article 4 process is somewhat lengthy, the Direction must apply to the smallest geographical area possible (i.e. only those areas where it can be demonstrated as necessary) and go through a process of public consultation, all supported by evidence. The Secretary of State must be notified of the proposed Article 4 and can override it.
- 3.10. Putting an application for an Article 4 together is time consuming, resource heavy and expensive so, by placing the onus on the LPA for (in effect) implementing the new Use Class, the Government risks this new provision not being fully used for reasons including LPA workload and competing pressures, rather than because there is no local need for an Article 4. In the areas where there are no issues with short term lets, this is typically because there is less demand and so it would not seem unduly onerous to require those who wish to convert a dwelling to a short term let to apply for planning permission. As with other areas of the Government’s planning reform agenda, this would mean that those who will benefit from the land use change, i.e. the financial gain accruing from the short term let, pay for the necessary process. As proposed, the communities who are most affected by short term lets in terms of, for example, the housing affordability gap or reduced local services, would be the ones paying to address the problem. This does not represent levelling up and this permitted development right cannot be supported.

c) A new permitted development right to allow change from short term holiday let (C5) to dwelling house (C3)

- 3.11. The potential introduction of a new permitted development right for the change of use from a short term let to a dwellinghouse. This would mean that a short term let could revert to a main dwelling house without needing planning permission;
- 3.12. This proposed new permitted development right would support the identified objectives around increasing housing stock and can be supported.

(d) The introduction of mechanism to allow homeowners to let out their home for a specified number of nights in a calendar year without needing planning permission

- 3.13. The creation of a new Use Class (C5) to cover short term lets, and thereby bringing this into planning control, would mean that, in planning law terms, sub-letting one's home for a temporary period would require planning permission. Clearly the Government is concerned this would be a disproportionate restriction for householders, so is seeking views on planning mechanisms to achieve this and an appropriate threshold at which such a restriction would apply. The consultation suggests either creating a new permitted development right to allow the temporary use of a dwelling house for 'temporary sleeping accommodation' or to include a specified number within the existing C3 Use Class. The thresholds suggested are 30, 60 or 90 days per calendar year.
- 3.14. The principle of this proposal is supported, as it should not significantly impact on the objective to improve housing provision in popular visitor areas, but would allow householders the flexibility to provide visitor accommodation for a temporary period, which would also benefit the local economy. It is important that the process around this is not overly complex for the householder (to avoid either discouraging take up or non-compliance), so it is considered that a clear householder permitted development right applying to Class C3 is a better approach, rather than include an allowance in Class C3. A dwellinghouse in C3 would therefore be able to be used either as a short term let for a specified number of days per annum or be changed to a permanent short term let in Use Class C5 without planning permission unless an Article 4 direction had been served. The ability of the LPA to serve an Article 4 Direction where needed is an important safeguard, both to support the policy objective and to protect communities. In terms of a suitable threshold, 60 days is considered a reasonable period, which provides flexibility and incentive to the householder.

(e) The introduction of a planning application fee for the development of new build short term lets

- 3.15. Currently, a new short term let would be treated the same as a new dwellinghouse as there is currently no separate Use Class. It is considered that the fee should be the same as for a new dwellinghouse as a minimum. Consideration could be given to provision for a supplementary fee to be payable in areas of high short term let and an affordability gap, with the additional fee being paid into a community housing fund.

DCMS consultation on a planned register of short term lets

- 3.16. The consultation document sets out the background, summarising the role of short term lets as an integral part of the infrastructure of the UK's visitor economy, but advising that, due to the scale of change in the last 15 years, particularly in the digital platforms, there are concerns about inconsistencies within the regulatory framework for the guest accommodation sector. It notes that, unlike with hotels and B&Bs, it is difficult to monitor compliance with key health and safety regulations by short-term lets given the lack of an authoritative data source. It also identifies concerns raised in areas with a high concentration of short-term lets about the impact on the availability and affordability of local rental housing and increased house prices driven by additional

demand from owners of short-term lets, as well as anti-social behaviour, and lack of community cohesion.

- 3.17. Many of the questions in the consultation cover detailed matters on which the Broads Authority has little detailed knowledge. It is proposed to respond as follows:
- i. the Broads Authority supports the principle of a register of short term lets, as the information would enable it to better monitor and manage the use of the housing stock within its area; and
 - ii. to ensure consistency and promote an even competition environment the register should be mandatory.

4. Financial implications

- 4.1. There would be additional work for the LPA arising from the new Use Class. This would include reviewing the data and considering the effects for planning policy, the recording of the short term lets and then monitoring compliance. Planning applications would also be received for the change of use.
- 4.2. This work would be covered by the existing staff resource.

5. Conclusion and recommendation

- 5.1. The proposals to bring short term lets within planning control is welcome and the creation of a new Use Class to achieve it is appropriate and proportionate. The Class should also include second homes, as these contribute to the identified problems.
- 5.2. There are concerns, however, about the proposed new permitted development right, which would allow a change to a short term let without requiring planning permission, unless there is an Article 4 Direction in place preventing this. Placing the onus for effectively implementing the new Class on the LPA will restrict its take up due to the lengthy process required.
- 5.3. It is recommended that members endorse the proposed responses set out in Appendix 1 and paragraph 3.17 as the formal response of the Broads Authority.

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[Broads Plan](#) strategic objective: F4

Appendix 1 – Proposed response to questions in consultation

Appendix 1: Response to questions in consultation.

Q.1 Do you agree that the planning system could be used to help to manage the increase in short term lets?

Yes/No/Don't know.

Please give your reasons.

Q.2 Do you agree with the introduction of a new use class for short term lets?

Yes/No/Don't know.

Please give your reasons.

The proposal to bring short term lets within planning control through the creation of a new Use Class is a welcome approach which is strongly supported. It would be a straightforward mechanism which could be used to manage the stock of an area's permanent and short term let accommodation in such a way as to best meet the needs of the communities, using existing housing needs data and the information from the proposed register of short term lets. The inclusion within the new Class C5 of existing short term lets (i.e. it would be applied retrospectively), as proposed, would be necessary, as would the register of short term lets proposed under the current DCMS consultation.

Q.3 Do you agree with the description and definition of a short term let for the purpose of the new use class?

Yes/No/Don't know.

Please give your reasons+

Q.4 Do you have any comments about how the new C5 short term let use class will operate?

Yes/No/Don't know

Please make your comments here

The proposed new C5 Use Class should include second homes as they also contribute to the issues that the changes seek to address. Second homes are more likely than holiday lets to be unused for long periods because they do not have the weekly turnover and, in policy terms, are the least preferred option when considering applications for new holiday accommodation. There is some concern that if second homes were to be excluded (and remain treated the same as main dwellings), this might prompt the conversion of some existing short term lets to second home use, so that the owners could continue to use them for long periods without restriction. This would undermine one of the objectives of the proposed change, however it is not considered that the risk of this is sufficient to outweigh the benefits of including second homes in the new Class.

Q.5 Do you consider there should be specific arrangements for certain accommodation as a result of the short term let use class?

~~Yes/No/Don't know.~~

Please give your reasons here. If yes, please say what these should be.

It is important that the process is simple to operate. Any benefits arising from different requirements for different accommodation types would be outweighed by the increased complexity, which will reduce compliance and make monitoring more onerous.

Q. 6 Do you agree that there should be a new permitted development right for the change of use from a C3 dwellinghouse to a C5 short term let (a)

~~Yes/No/Don't know.~~

Please give your reasons.

The rationale for this is acknowledged, however by placing the onus on the LPA for (in effect) implementing the new Use Class, the Government risks this new provision not being fully used for reasons including LPA workload and competing pressures, rather than because there is no local need for an Article 4. Putting an application for an Article 4 together is time consuming, resource heavy and expensive. In the areas where there are no issues with short term lets, this is typically because there is less demand and so it would not seem unduly onerous to require those who wish to convert a dwelling to a short term let to apply for planning permission. As with other areas of the Government's planning reform agenda, this would mean that those who will benefit from the land use change, i.e. the financial gain accruing from the short term let, pay for the necessary process. As proposed, the communities who are most affected by short term lets in terms of, for example, the housing affordability gap or reduced local services, would be the ones paying to address the problem. This does not represent levelling up.

Q.7 Do you agree that there should be a new permitted development right for the change of use from a C5 short term let to a C3 dwellinghouse (b)

~~Yes/No/Don't know.~~

Please give your reasons.

This would support the objective to increase the supply of dwellinghouses for permanent accommodation.

Q.8 Do you agree that the permitted development rights should not be subject to any limitations or conditions?

~~Yes/No/Don't know.~~

Please give your reasons

National Park, the Broads and land within AONBs should be excluded from the new permitted development rights relating to proposed Use Class C5.

Q.9 Do you agree that the local planning authority should be notified when either of the two permitted development rights for change of use to a short term let (a) or from a short term let (b) are used?

~~Yes/No/Don't know.~~

Please give your reasons

This will better facilitate monitoring.

Q.10 Do you have any comments about other potential planning approaches?

~~Yes/No~~

If so, please provide details here.

Q.11 Do you agree that we should expressly provide a flexibility for homeowners to let out their homes (C3 dwellinghouses)?

~~Yes/No /Don't know~~

Please give your reasons.

No objection to this as it is a means to provide additional accommodation but needs to be limited in order to protect communities.

Q.12 If so, should this flexibility be for:

~~i. 30 nights in a calendar year; or~~

~~ii. 60 nights in a calendar year; or~~

~~iii. 90 nights in a calendar year~~

Please give your reasons.

Q.13 Should this flexibility be provided through:

i) A permitted development right for use of a C3 dwellinghouse as temporary sleeping accommodation for up to a defined number of nights in a calendar year

~~ii) An amendment to the C3 dwellinghouse use class to allow them to be let for up to a defined number of nights in a calendar year.~~

Please give your reasons.

Option (i) is preferred as this allows for an LPA to use an Article 4 Direction if necessary.

Q.14 Do you agree that a planning application fee equivalent to each new dwellinghouse should apply to applications for each new build short term let?

~~Yes/No/Don't know.~~

Please give your reasons.

This is consistent with all other applications for development

Q.15 Do you agree with the proposed approach to the permitted development rights for dwellinghouses (Part 1) and minor operations (Part 2)?

~~Yes/No/Don't know~~

Please give your reasons.

Q.16 Do you have any further comments you wish to make on the proposed planning changes in this consultation document?

~~Yes/No~~

If yes, please provide comments.

Q.17 Do you think that the proposed introduction of the planning changes in respect of a short term let use class and permitted development rights could give rise to any impacts on people who share a protected characteristic? (Age; Disability; Gender Reassignment; Pregnancy and Maternity; Race; Religion or Belief; Sex; and Sexual Orientation).

~~Yes/No/Don't know.~~

If so, please give your reasons.

No comment

Q.18 Do you think that the proposed introduction of the planning changes in respect of a short term let use class and permitted development rights could impact on:

- a) businesses**
- b) local planning authorities**
- c) communities?**

~~Yes/No/Don't know.~~

Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination.

- (a) This should provide more consistency across the industry, with all adhering to the same requirement. Where regulations are not equally applicable or cannot be evenly enforced, this creates an uneven competition environment for other accommodation providers, who must apply for planning permission, comply with detailed regulations and pay business rates, whereas domestic-rated short-term lets do not.
- (b) The workload associated with the changes, particularly monitoring, will increase the burden on the LPA. This could be reflected in the application fee.
- (c) There are potentially significant benefits for communities in the areas most affected by short term lets and the opportunity represented by the proposed changes is welcome.