

RTPI response to the DLUHC consultation ‘Introduction of a use class for short term lets and associated permitted development rights’

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Background and related consultations

This is the RTPI response to the [DLUHC consultation](#) on the ‘Introduction of a use class for short term lets and associated permitted development rights’.

This is being run in parallel to the [DCMS consultation](#) ‘Consultation on a registration scheme for short-term lets in England’. The Institute is not responding to that consultation, but it provides useful context and relates to our proposed alternative policy.

Consultation questions and responses

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.

The RTPI agrees that the large and likely increasing number of short term lets (STLs) in some areas of England is an important planning issue, and one that has rightfully received national attention. Indeed, in addition to the negative impacts the government identifies – which include undermining areas’ ability to meet local housing need, adversely impacting the vitality of



communities, and increasing traffic and noise disruption – the proliferation of STLs can undermine the carbon-efficient use of existing housing stock. This is because stock lost to STLs (which are generally not occupied year-round) needs to be replaced with new build housing stock.

At the same time, and as the government acknowledges, the availability of STLs can bring important economic benefits to individuals and communities in some areas.

As [research by RTPI Wales](#) has found, this balance of costs and benefits varies significantly from place to place, as do the views of local communities. This local variation suggests that local authorities are best placed to regulate STLs according to local needs and political concerns – an important principle that we will return to in response below.

Overall, STLs are an important planning issue, and as we lay out in response to question 10, there are strong planning tools available to local planning authorities in England to address them.

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.

We do not agree with the introduction of a new use class for STLs as mapped out in these proposals. There are better tools available within the planning system to deal with this problem, and we have significant concerns about the workability of the proposed overall approach of controlling STLs via the introduction of a new use class, new permitted development rights, and the local introduction of Article 4 directions.

Because the different aspects of the government's proposed approach are closely interlinked, we lay out our concerns together below:

1. *These proposals would not deal with homes which have already been converted to holiday lets:* They will therefore remain a serious, ongoing, problem in some places.
2. *These proposals could result in some places seeing a boom in conversions before they can be controlled:* Local authorities must generally give 12 months' notice of an Article 4 Directions coming into force, after having consulted on it for 28 days.¹ This 'policy gap' before implementation may generate a glut of uncontrolled conversions for two linked reasons:
 - a. Under the current system, the use of a dwellinghouse for 'more-than-ancillary' short-term accommodation amounts to a material change of use. In other words, using a house primarily for AirBnB-type accommodation requires a planning application. The permitted development rights these proposals introduce would end the need for such an application. This would mean that places without an

¹ It is possible for LPAs to seek 'immediate' Article 4 Directions, which removes permitted development rights with immediate effect, before they are then consulted on. These Directions lapse after 6 months if they are not confirmed. However, such directions can only be used where there is an urgent and justified need for protection.



Article 4 Direction in place would have less control over new conversions than they currently do; and

- b. Property owners will likely seek to take advantage of these permitted development rights while they remain.

In some places this combination of factors could eat up much of the remaining housing stock before controls can come into place.

3. *The policy tool that the government proposes local planning authorities use to control STLs are too limited and could simply displace new STLs to other areas within local authorities:* National planning policy states that Article 4 Directions should apply to the 'smallest geographical area possible', and that there needs to be 'a particularly strong justification for their use over a wide area' (such as a large portion of a local authority area).² This makes it difficult for local planning authorities to apply them to their entire area. This, combined with the fact that an Article 4 Direction is a reactive tool that only removes specific permitted development rights (rather than proactively guiding development), means that their use will probably produce significant spill-over effects: new STLs may be displaced to just beyond the zone identified in the direction, *even within a local authority area.*
4. *Local authorities are best placed to plan for STLs, but these proposals create uncertainty by giving the Secretary of State a veto power over new policy:* Local planning authorities must notify the Secretary of State when they make a new Article 4 Direction. The Secretary of State can then block or modify them before they come into force. We do not think it is appropriate for the Secretary of State to be involved in decision making on such localised issues for two reasons:
 - a. Local authorities are best placed to understand local needs and concerns relating to STLs, and therefore where and how much control they should apply. We do not see how the Secretary of State would be better placed to do this.
 - b. As stated above, the Secretary of State may modify or block the Article 4 Directions made by local planning authorities. This is a power that the Secretary of State has regularly exercised in recent years. The consultation suggests two things which are in tension. These are, first that the Secretary of State will be sympathetic to local concerns about STLs when reviewing Article 4 Directions, and second, that the policy tests which Article 4 directions must pass to be accepted by the Secretary of State will not change. These tests are currently strict: As noted earlier, they limit their geographical extent as much as possible, and place a large burden of evidence on local planning authorities. The Secretary of State may well refuse or reduce the scope of Article 4 Directions, which they have done regularly in relation to other permitted development rights (for example, regarding office to residential conversions). This could breed significant

² As we state below, the consultation does not suggest that these tests will change.



uncertainty for local authorities that are attempting to plan for STLs and their positive and/or negative impacts on their communities.

5. *These proposals fail to adequately address how short-term let use will be monitored, leaving communities without the tools to enforce or monitor any controls they might have introduced:* The government does not propose any realistic means of monitoring the number of nights that STLs are occupied for, or methods of bringing action when this threshold has been exceeded. How will local authorities know that a primary residence has been used as a STL for longer than the specified period of time? Is reporting by the public sufficient or desirable?
6. *These proposals may require legislative change:* The proposed approach to setting a maximum number of nights which a dwellinghouse (use class C3) may be let without it constituting a material change of use and become C5 may be flawed. It assumes that, should a dwellinghouse be let longer than a prescribed number of nights, it would automatically result in a material change of use. But this may not be the case, as argued in a [recent analysis from Town Legal](#):

*“A change of use is only development if it is material, and **materiality is assessed with reference to a range of factors which are often site- or proposal-specific.** To make the use of a dwellinghouse as a short term let for 31 or 35 days a material change of use, would need specific legislative provision, absent which subjective judgments will remain determinative.” [emphasis added] (see point 2a, above)*

For the government to implement its proposals, it may therefore need to amend legislation.

We describe an alternative overall approach to planning for STLs, which addresses many of these issues and would bring greater local accountability, control, and flexibility, in our response to question 10. This approach would require legislative change, but as the analysis from Town Legal relayed above suggests, it is like that the government’s would too.

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.

As we explain in response to question 2, we do not think that a new use class for STLs should be introduced as we disagree with the government’s overall proposed approach (we outline an alternative in our response to question 10).

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**

As we explain in response to question 2, we do not think that a new use class for STLs should be introduced as we disagree with the government's overall proposed approach (we outline an alternative in our response to question 10).

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.

As we explain in response to question 2, we do not think that a new use class for STLs should be introduced as we disagree with the government's overall proposed approach (we outline an alternative in our response to question 10).

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.

As we explain in response to question 2, we do not think that a new use class for STLs should be introduced as we disagree with the government's overall proposed approach (we outline an alternative in our response to question 10).

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.

As we explain in response to question 2, we do not think that a new permitted development right for this change of use should be introduced as we disagree with the government's overall proposed approach (we outline an alternative in our response to question 10).

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



As we explain in response to question 2, we do not think that a new permitted development right for this change of use should be introduced as we disagree with the government's overall proposed approach (we outline an alternative in our response to question 10).

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

As we explain in response to question 2, we do not think that a new permitted development right for this change of use should be introduced as we disagree with the government's overall proposed approach (we outline an alternative in our response to question 10).

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

Yes/No

If so, please provide details here.

As we explained in response to question 2, the proposed approach has some important flaws. To summarise, it would:

- Only deal with new STLs, and ignores pre-existing conversions;
- Incentivise the creation of more STLs during the one-year grace period that's required before local controls come into force, even in places that are trying to limit their creation;
- Lead to new STLs simply being displaced from areas of local authorities that have planning controls on them, to those that do not, in an unplanned way;
- Give the Secretary of State, not local authorities, the final say over how they plan for STLs in their area;
- Fail to address how the number and occupancy of holiday homes will be monitored or enforced; and
- Likely require change to primary legislation to be fully implemented.

Alternative approach – amending the definition of development

A more effective approach would be to amend the meaning of 'development' as defined by section 55 of the Town and Country Planning Act 1990 (this could be made via the Levelling Up and Regeneration Bill). At present, the use of a dwellinghouse as a second home or a holiday let does not constitute 'development'.

If the government were to amend this definition of development so that it included the use of dwelling houses as STLs (and provided accompanying regulations), doing so would be deemed a material change use. This, in turn, would mean that property owners that did this would need to seek planning permission.



Local authorities would then be able to write plan policies to shape the use of STLs in their areas, and grant or denying planning permission accord to those policies and other relevant considerations. They could tailor these policies according to local needs and concerns.

Some local authorities may seek to encourage the development STLs in particular areas as a way of boosting their tourism economies. These authorities could coordinate local investment in infrastructure and support STLs in places they are most suited to via local plan policy, without having to put an Article 4 Direction in place to do so. They could do this across a whole local authority area, or individual locations. Local authorities that do not wish to limit the development of STLs in their areas could purposefully set a very low policy bar. Other local authorities, that want to more tightly control the development of STLs, may establish ‘STL control areas’, which would reduce the expansion of STLs through plan policies of various strengths and types.

In both cases planning permission should be a prerequisite of the licencing/registration scheme that DCMS are currently consulting on in parallel, and owners of dwellinghouses which are already being used for STLs would need to apply for planning permission through a planning application or a Lawful Development Certificate. This would give local authorities the power to control their existing stock of STLs (but only if they wished to do so). The government and local authorities could also, if they see fit, establish time-limited consents for STLs, so that local policy could be responsive to changing needs and concerns over time.

Benefits of this approach

The alternative approach we outline here would be more effective than the government’s proposed approach in several ways:

- *Local authorities that want to encourage STLs in some places would be able to do so more strategically, sustainably, and proactively:* Local authorities would be empowered to produce policy that proactively supports STL developments, in a way that is coordinated with other local plan policies;
- *It would enable more effective enforcement:* By drawing on both the town and country planning regime and the licencing scheme proposed by DCMS;
- *It would be self-resourcing:* If planning applications fees for STLs were set at a rate equivalent to full cost recovery, the resourcing impact on local authorities would be neutral. Ringfencing these fees for use within planning departments would ensure that the service was sustainable; and
- *It could respond to changing local needs and concerns:* If Lawful Development Certificates or planning applications were required for existing STLs, and these gave time-limited permissions, existing stock could be managed over time, making policy more responsive; and
- *It is more locally-led and provides more certainty for developers and authorities:* It would be genuinely locally-led – local authorities would not need to have an Article 4 direction signed-off by the Secretary of State to be able to plan for STLs in their area.
- *It would enable local authorities to restrict or promote STLs over their entire area, or specific parts of it:* The government’s proposed approach is build around a policy tool which can only be applied to very limited areas – something which could bring significant spill-over effects within local authority areas.



MPs of all parties made their desire for genuinely locally-led responses to this issue in the 23 May Westminster Hall Debate [‘Short-term Holiday Lets: Planning’](#).

Evidence from Wales and Scotland

A similar approach to the one outlined above is currently being taken in Scotland. RTPI Wales summarised it in its report [Holiday Homes in Wales](#) as follows:

“In the Planning (Scotland) Act 2019 the definition of development has been amended. The Regulations for applying this are currently being consulted on. This new clause will allow a planning authority to designate all or part of their area as a ‘short-term let control area’ allowing for differences in the impact felt. In a short-term let control area, the use of a property for providing short-term lets will be deemed to involve a material change of use of the dwelling house and so require planning permission.

This is reinforced with a parallel licencing scheme which will address issues not controlled by planning, including environmental health considerations such as noise. Planning permission for a short-term let in a control area is very likely to be a pre-requisite for obtaining a licence (to be confirmed by the regulations). This would therefore address the issue of those houses already being used for short-term let, as they would need to apply for planning permission through a planning application or establish existing use that meet the legislative time limits through a Lawful Development Certificate (LDC).”

Legislative requirements

Clearly, the alternative approach which we outline here would need (minor) legislative change. However, as we discuss in point 7 of our response to question 2, though it is not acknowledged in this consultation, the government’s proposals around dwelling houses *automatically* changing use class after they have been let for a fixed number of days may require legislative measures.

Other planning approaches – particularly for areas which already have high numbers of STL

The policy response cannot be limited to regulation – it should be accompanied by increasing housing affordability and service provision through councils proactively planning for new homes of a range of tenures.

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.

The RTPI does not have a strong view on this issue, but we are concerned that many local authorities lack the resources to effectively monitor and enforce limits on the number of nights a home can be let out before it requires planning permission.

As we argue in our response to questions 16, research carried out by the RTPI in 2022 ([Planning Enforcement Resourcing](#)) found that only 50% of local authorities have the capacity to monitor compliance of planning conditions following successful enforcement action, and 80% of

respondents to the report's survey felt that there were not enough officers in their team to carry out the workload.

Greater London provides a case study of the enforcement challenges LPAs face in relation to STLs, given this resourcing situation: Properties in London can be let up to a maximum of 90 nights in a calendar year without planning permission. But a recent report by the Greater London Authority (Housing Research Note 2020/04 - [Short-term and holiday letting in London](#)) found that this limit is ineffective because borough enforcement teams do not have the resources to enforce it and it is difficult to monitor.

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.

We have no strong views on this question. Please see our response to question 11.

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.

No comment.

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.

Yes, however, as we argued in response to the government's recent consultation on planning fees, for local authority planning services to be genuinely sustainable and effective, in each case fees should be set at a rate that is equivalent to full cost recovery. The alternative is for the government to fund planning services via direct grants.



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.

No comment.

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.

Whether the government takes its proposed approach or the RTPI's, effectively resourcing planning enforcement, development management and policy teams to deliver the changes will be crucial to their success. However:

- *With regards to planning enforcement:* RTPI research '[Planning Enforcement Resourcing](#)', conducted in 2022, found that only 50% of authorities have the capacity to monitor compliance of planning conditions following successful enforcement action, 80% of survey respondents felt there were not enough officers in their team to carry out the workload, and almost 90% of councils are experiencing an enforcement backlog. See our response to question 11 for an example of the impacts of this under-resourcing.
- *With regards to development management:* The government recently acknowledged in its consultation [Increasing planning fees and performance: technical consultation](#) that 'the funding shortfall for the planning application service is currently estimated to be in the region of £225 million annually (approximately 33%)'.
- *With regards to policy:* [RTPI's Resourcing Public Planning 2019 research](#) has found that planning policy teams have been disproportionately affected by cuts; about two-thirds of total reductions to spending on planning and 73% of reductions in spending on staff have been in planning policy between 2009-10 and 2017-18. As a result local authorities have struggled to deliver up-to-date local plans, as well as other policy and guidance which could be used to shape the creation of STLs.

The overall picture is striking - [the RTPI's State of the Profession 2023 research has](#) found that a quarter of planners left the public sector between 2013 and 2020. Many of the [areas which are most affected by](#) the phenomenon of STLs such as Scarborough, North Devon, East Suffolk, South Norfolk, the Cotswolds, York, Great Yarmouth, East Riding of Yorkshire are contending with severe staff shortages, with South Norfolk facing a vacancy rate of 52%.

The RTPI has a number of proposals to address this problem, including the [introduction of chief planning officers](#); examining the business case for central grant funding of planning departments; providing further support through the [RTPI bursary scheme](#); supporting professional apprenticeships; taking steps to improve the public sector working environment; and encouraging more efficient institutional structures such as the [Planning Agencies](#) model.



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.

If these proposals fail to address housing needs in areas heavily effected by STLs – by for example, displacing new STLs outside of Article 4 Directions' areas, or driving a surge of conversions before Article 4 Directions come into force – access to affordable, good-quality and diverse housing in some communities may worsen. A wide-ranging 2017 meta-analysis by [Public Health England](#) established that:

“...the provision of affordable housing for vulnerable groups (including adults with intellectual disability and adult substance users) can lead to improvements in social, behavioural and health-related outcomes...” (p24)

And;

“the provision of secure and affordable housing for those with some chronic medical conditions, such as HIV/AIDS, can increase engagement with healthcare services which has been shown to lead to improved health-related outcomes.” (p24)

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.

No comment.