

MKCC response to DLUHC Consultation on Introduction of a use class for short term lets and associated permitted development rights

Consultation Question	MKCC response
<p>Q.1 Do you agree that the planning system could be used to help to manage the increase in short term lets?</p>	<p>Whilst MKCC recognises the role that short-term lets have in the leisure and business visitor economy, we are concerned with regards the number of properties within our Borough area that are currently used for the sole/main purpose as short-term lets thus, removing them from the market for purchase or rent by local people to live in.</p> <p>The presence of a large number of properties for short-term lettings is therefore having an undue impact upon the delivery of housing within the Borough by reducing the number of properties delivered which are contributing to meeting actual recognised needs as outlined in our Local Plan; Plan:MK and therefore, affecting both availability and affordability of homes; as well as potentially creating more localised impacts on communities.</p> <p>To-date there is no mechanism in place to either monitor the number of active short-term lets or to control the use of residential properties for the sole-purpose of short-term lets. Therefore, we have had, and have, no ability to mitigate the impacts of these uses on the availability of housing for local residents.</p> <p>It is our view that the implementation of mechanisms to monitor and control the use of properties as short term lets is therefore overdue and, as such, we support the principle of introducing measures through the planning system.</p> <p>Furthermore, we believe that the planning system provides the most suitable route for implementing mechanisms that can effectively control this use moving forward. Whilst licensing may provide some controls, there is a need to consider the outward effects arising from such uses on the amenity of the area and surrounding infrastructure; for example, MKCC has successfully used Article 4 allowances to regulate the creation of HMOs across the City so to ensure the creation and fostering of sustainable communities.</p>

	<p>The implementation of the proposed measures should however be delivered alongside a registration scheme for short-term lets, to ensure that local authorities have all available data to better understand which premises are being let out within their area and provide the relevant evidence to assist in managing the impacts of high numbers of short term lets on the housing market.</p>
<p>Q.2 Do you agree with the introduction of a new use class for short term lets?</p>	<p>Yes – as the manner in which a short term let is used can often have materially different effects on local communities, affecting the character and cohesiveness of an area, whilst also reducing the availability of suitable, family and affordable housing stock.</p> <p>The introduction of a new use class for short term lets will enable Local Planning Authorities (LPAs) to more accurately monitor and control the number of properties being used solely for these purposes. It also has the potential to assist LPAs in understanding the reasoning for the numbers and concentrations of properties being used for these purposes at a more localised level and where applicable actively plan for these as a separate need.</p>
<p>Q.3 Do you agree with the description and definition of a short term let for the purpose of the new use class?</p>	<p>Agree that the definition of the new use class should capture those properties which are not used as a sole or main residence so as to ensure all dwellings which will not contribute towards meeting a local authority’s identified housing need are captured and the true impact on the housing market is identified. Furthermore, the planning use class definition should align with that to be used in the proposed registration scheme (currently being consulted on by The Department for Culture, Media, and Sport), so as to ensure data can be shared and an accurate understanding of the amount of short term lets in an area can be achieved.</p> <p>However, the proposed definition needs to consider there are many second homes which are not used for commercial gain and their character of use is no different to a normal domestic property.</p>
<p>Q.4 Do you have any comments about how the</p>	<p>It is understood that existing properties which would fall into the new C5 use class would not need to seek planning permission for re-classification. Existing</p>

<p>new C5 short term let use class will operate?</p>	<p>provisions do however allow for a Lawful Development Certificate to establish whether the existing or proposed use of a property would constitute a material change of use. It is therefore possible that many property owners would seek such confirmation given the potential effects this may have on mortgages, insurance, etc. This may have a substantial initial and ongoing impact on LPA resources.</p> <p>In addition, as noted in the Department for Culture, Media, and Sport (DCMS) call for evidence and ongoing consultation, it will be necessary to establish a register (preferably at a national level) to hold the declared use of property as C5 short term lets at any point in time (this could be required under licensing provisions) to ensure that LPAs have information available about which premises are being let out in their area. This will provide valuable information to help manage the housing market impact of high numbers of short-term lets and apply and enforce the use class changes.</p> <p>Furthermore, without such records, upon receipt of an alleged breach of planning control, LPAs will have to resort to information gathering (i.e. Planning Contravention Notices) and investigation at considerable expense.</p> <p>It is welcomed that the consultation (para 25) indicates it would be appropriate for local planning authorities to restrict use of new property to C3 or C5 (as appropriate), depending on local housing needs/planning policy. It could perhaps be useful if National Policy were updated to align with this and so as to provide a policy position in the absence of this at a local level whilst LPAs are in the process of preparing plans.</p>
<p>Q.5 Do you consider there should be specific arrangements for certain accommodation as a result of the short term let use class?</p>	<p>There may be a need to provide allowances for accommodation which is designed to serve student populations, (for example in Milton Keynes those around Milton Keynes University or the Bletchley Institute of Technology campus). It may therefore be appropriate to ensure the C5 definition excludes dwellinghouses which are provided or managed by a university or educational organisation, linking such</p>

	<p>definition to appropriate legislation for such organisations.</p>
<p>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)</p>	<p>Whilst we do not object to the principle of implementing a permitted development right for the change of use from a C3 dwellinghouse to a C5 short term let, we are concerned with the context in which the consultation document sets this out and, the lack of detail provided in relation to the expectations of when the implementation of an Article 4 direction would be considered appropriate.</p> <p>This part of the consultation appears to focus on the view that high volumes of short term lets are concentrated in certain locations and that the removal of this permitted development via an Article 4 direction should apply to the smallest geographical area possible, stating ‘areas, streets or individual properties’, as examples.</p> <p>This does not consider those authorities, such as Milton Keynes, whereby it is the cumulative impact of short term lets across a wider area (even potentially across an entire authoritative area) which are having a potential negative impact – particularly with regards to availability and affordability of housing supply.</p> <p>It is therefore essential that if this permitted development right were to be implemented, LPAs have the ability to apply an Article 4 direction across an area which best responds to the issues being created by short-term lets within their area.</p> <p>Furthermore, if a permitted development right is to be implemented it must be ensured that the proposed registration scheme (currently being consulted on by The DCMS) is implemented alongside or prior to the proposed changes to the planning system, so as LPAs have the relevant data to fully evidence the impact of short-term lets on their area and to support the application of an Article 4 direction where applicable.</p> <p>Suitable guidance on interpretation through the Planning Practice Guidance will also be required.</p>
<p>Q.7 Do you agree that there should be a new</p>	<p>Yes, subject to suitable guidance on interpretation being provided through the Planning Practice</p>

<p>permitted development right for the change of use from a C5 short term let to a C3 dwellinghouse (b)</p>	<p>Guidance. A new permitted development right for the change of use from a C5 short term let to a C3 dwellinghouse will ensure dwellings can be easily added back into the housing supply so as to meet recognised local need.</p>
<p>Q.8 Do you agree that the permitted development rights should not be subject to any limitations or conditions?</p>	<p>No. Putting aside the wider impact of short-term lets on the housing market, the more localised impacts on communities vary between those having no effect due to their use for fewer, longer periods, and those having substantial impacts on the character of the area due to a high frequency of very short lettings (e.g. weekends).</p> <p>It would be prudent to impose a limitation which only allows for the automatic change from C3 to C5 in circumstances where each letting is no less than 7 calendar days, and for no more than 52 persons or groups of persons per annum, as well as conditioning the requirement for a register of 'tenants' to be kept to enable monitoring of these limitations.</p> <p>This would allow for holiday and second homes to continue being used in such a manner which has not caused undesirable impacts for decades but require an application for planning permission where shorter-term lettings are intended. Where the letting period is less than 7 calendar days, or for more than 52 persons/groups of persons, a prior approval procedure could be included, to allow the local planning authority to assess amenity and parking effects, as well as community cohesiveness.</p>
<p>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?</p>	<p>This is likely to be a duplication of the proposed register of short term lets (subject to the DCMS consultation). It is likely to create unnecessary burden on LPAs as well as raise expectations in local communities that such notifications can be refused. A register administered under licensing requirements would be more appropriate.</p> <p>However, it is essential that LPAs have access to the most up-to-date data on the amount of short-term lets within its area, so as to be able to monitor and control the use. If a register of short term lets is not implemented (in advance, or at the same time as any</p>

	changes to the planning system) then an alternative approach, such as notifying the LPA, will be required.
Q.10 Do you have any comments about other potential planning approaches?	No
Q.11 Do you agree that we should expressly provide a flexibility for homeowners to let out their homes (C3 dwellinghouses)?	Yes, if limited to ensure that the property remains the owners sole/main place of residence thus limiting impacts upon housing availability and affordability in the area. However, it would be matter of fact and degree as to whether this even constituted a material change of use, since it would retain its use as a main or sole dwellinghouse. It is therefore questionable whether such provision is needed in legislation which could actually raise confusion.
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	The flexibility, if needed (see response to Q11), should have regard to the potential for the longer period of 90 days to be operated more intensively (i.e. changing occupiers on a frequent basis, similar to STLs). Similar limitations as suggested at Q8 may be appropriate for 60 and 90 days, although a 30 day allowance is likely to be self-regulating. There remains a question over the ability to monitor such use, as it would not be subject to registration and it may not be possible to fully investigate and enforce against alleged breaches before the use ceases for the calendar year.
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.	Given the observations at Q11, it may not be possible for local planning authorities to confirm that development would take/had taken place. Accordingly, it would assist all parties by making the UCO clear in that it does not regard such use to be development (i.e. a new sub-class of C3).

<p>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?</p>	<p>Yes. The social and environmental effects of short term lets would be similar to that arising from creation of build to rent, flats or student accommodation, and the local planning authority would need to be properly supported by the development industry to assess such proposals. Indeed, if no fee or a lesser fee were charged, the proposed permitted development right would allow a loophole for C5 schemes to be flipped to C3 dwellinghouses on completion - potentially without providing for affordable housing and appropriate planning obligations.</p>
<p>Q.15 Do you agree with the proposed approach to the permitted development rights for dwellinghouses (Part 1) and minor operations (Part 2)?</p>	<p>Whilst recognising existing rights allow for properties to be extended or altered ahead of the proposed introduction of a C5 use class, there is some concern that existing properties could be substantially enlarged to maximise the income from short term lettings at the expense of retaining smaller, affordable housing stock and potentially resulting in greater impacts on local communities from noise and disturbance, as well as flood risk and biodiversity impacts from creation of hardstanding. Whilst Part 1 provisions would not apply to flats (given the specific definition in the GPDO), consideration should be given to whether to prevent changes from C3 to C5 if Part 1 rights have been exercised in the previous 3 years, as well as considerably limit Part 1 rights for C5 properties. The eventual definition of a short term let will also have a bearing on whether such rights should extend to C5 uses.</p>
<p>Q.16 Do you have any further comments you wish to make on the proposed planning changes in this consultation document?</p>	<p>No</p>
<p>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</p>	<p>Loss of smaller, affordable housing units to short term lettings could impact upon individuals and families on lower incomes or those who require specific housing needs (e.g. bungalows for disabled persons). Furthermore, accessible locations are likely to be attractive to the short term let market, further impacting on those persons who require</p>

<p>people who share a protected characteristic? (Age; Disability; Gender Reassignment; Pregnancy and Maternity; Race; Religion or Belief; Sex; and Sexual Orientation).</p>	<p>permanent, affordable housing in the same locations.</p>
<p>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:</p> <p>a) businesses</p> <p>b) local planning authorities</p> <p>c) communities?</p>	<p>The impact both in terms of scale, type and who be impacted, will be dependent upon the number of short-term lets which currently exist within an area, the likelihood of continuing high levels of new short-term lets within an area and, the reasons for high levels where these exist.</p> <p>An area which currently has limited numbers of short-term lets is unlikely to be impacted by the proposed changes however, for those areas where high levels of short-term lets currently exist and the reasons for this mean it is likely that the number will continue to increase moving forward, then the proposed changes will likely have impacts on all of the groups mentioned. The nature and scale of this impact for each individual group mentioned will vary in each area.</p> <p>With regards LPAs, we are likely to be challenged with increased demand on resource to investigate alleged breaches of planning control, and either regularise or enforce against breaches where established. The responsibility for monitoring the use of short term lets will also rest with the local authority such that an effective and mandatory register is required.</p>