

Chichester District Council

Planning Committee

25 May 2023

Response to Government consultation on 'Introduction of a use class for short term lets and associated permitted development rights'

1. Contacts

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2. Recommendation

- 2.1 That the Planning Committee consider and agree the attached responses to the consultation questions for submission in response to the government consultation on 'Introduction of a use class for short term lets and associated permitted development rights'.**

3. Background

- 3.1 The Government is running a public consultation from 12 April 2023 to 7 June 2023 on proposed changes to the Town and Country Planning (Use Classes) Order 1987, as amended, the Town and Country Planning (General Permitted Development) Order 2015, as amended, and the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits). The amendments would introduce new permitted development rights to which would give Local Planning Authorities greater control over the use of the use of houses as short term lets where this impacts upon the needs of the local community.
- 3.2 The consultation indicates that there are an estimated 148,000 properties in England being used for short term accommodation, and that this has increased by 661% in 5 years to September 2021. This consultation is being undertaken in recognition that whilst tourist accommodation can benefit the economy of an area, in some areas it can impact upon the availability and affordability of housing and the sustainability of local communities. The proposed definition of a short term let is detailed at paragraph 5.2 of this report.
- 3.3 The consultation can be found here [Introduction of a use class for short term lets and associated permitted development rights - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/introduction-of-a-use-class-for-short-term-lets-and-associated-permitted-development-rights)
- 3.4 The consultation covers:
- The introduction of a new use class for short term lets
 - The potential introduction of a new permitted development right for the change of use from a dwellinghouse to a short term let

- The potential introduction of a new permitted development right for the change of use from a short term let to a dwellinghouse
- How a flexibility for homeowners to let out their home for a number of nights in a calendar year could be provided through either changes to the dwellinghouse use class or an additional permitted development right
- The introduction of a planning application fee for the development of new build short term lets

4. Outcomes to be Achieved

- 4.1 To influence the Government's proposals for future permitted development rights for short terms lets.

5. Proposal

- 5.1 The purpose of this report is to provide a response to the consultation as set out in Appendix 1 of this report. The following highlights the key changes proposed and summarises the responses, using the consultation Chapter headings.

Introduction of short term let use class

- 5.2 It is considered that the proposed changes would provide Local Planning Authorities (LPA's) with control over new short term let uses, and importantly, would allow the LPA to assess these proposals against any local impacts arising from such uses. The consultation proposes the creation of a new use class called 'C5 Short Term Let'. The definition of this C5 use would be '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'. It is considered that this is sufficiently clear to differentiate this use from a 'C3 Dwellinghouse' which is defined as: 'Use as a dwellinghouse (whether or not as a sole or main residence) by: (a) a single person or by people to be regarded as forming a single household, (b) not more than six residents living together as a single household where care is provided for residents, (c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4)'.
- 5.3 The proposed C5 use would not include dwellinghouses where the homeowner lets out a room or rooms without their own home, where it would remain the 'sole or main dwellinghouse' of the homeowner. However, 'second homes' that are let out for part of the year would fall within the C5 Short Term Let use. The consultation indicates that where an existing building is being used as a short term let, the building will assume the C5 use class. It is considered important the LPA makes it clear that this should only be the case where the use has been carried out for a reasonable length of time, and officers recommend that this should be a period of no less than 4 years, i.e. from May 2019, to reflect the use prior to the Covid-19 Pandemic.

- 5.4 The introduction of the new use class for short term lets would mean that changing the use of a dwelling to a short term let would constitute development that ordinarily requires planning permission. The Government is proposing to introduce the new use class order to manage the impacts where a high number of short term lets is having a harmful impact on the availability and affordability of housing, and the sustainability, or local communities. This is not a concern in many areas, and to require a planning application to use a dwelling for short term lets in all instances would be unnecessarily onerous for property owners. The Government proposals include introducing new permitted development rights that would automatically grant planning permission for the new short term let use.

New permitted development rights

- 5.5 The proposal is to introduce two new permitted development rights;
- a. **The change of use from a C3 dwellinghouse to a C5 short term let.** This would allow for continued flexibility to use a property as a home or short term let where there is no local issue
 - b. **The change of use from a C5 short term let to a C3 dwellinghouse.** This would allow short term let properties to be made available to rent or to buy without the need for a planning application for the change of use.
- 5.6 In respect of the proposed permitted development right to change from a C3 to a C5 use, it is unclear as to who would determine that there is 'no local issue'. This appears to be an issue that could lead to confusion for property owners and LPAs. Officers therefore recommend that this caveat be removed from the permitted development.
- 5.5 The Government indicates that LPA's would have the ability to consider imposing an Article 4 Direction to prevent these permitted development rights from being exercised, if they can demonstrate a local issue. The consultation document is clear that any such restriction should be applied to the smallest geographical area. It is expected that any Article 4 would require the agreement of the Secretary of State, as is currently the case, however it is positive that the Government has indicated that it is an appropriate way to manage short term lets if they are harming the local community. It is considered to be sensible that the Government proposes a second permitted development right that would allow the reversion of Short Term Lets to dwellinghouses.

Flexibility to let out your own home

- 5.6 The consultation proposes that homeowners could benefit from a relaxation that would allow them to rent out their homes for a specific number of nights per calendar year. Whilst it is understood this is to balance the needs of the community with homeowners who may choose to rent out their home to assist with cost of

living, it is considered that in planning terms it would be very difficult to monitor when a change of use occurs from a C3 to a C5 property if this flexibility is permitted. Whilst it is not unusual for temporary permitted development rights to exist for some uses, these largely relate to uses that are clearly distinguishable from the lawful use of a piece of land or building. For example, the use of land for a market. It is considered that it would be very difficult to identify when a property is occupied by the homeowner, and when it is occupied by a person renting it for a short period of time. It is for this reason that officers are concerned about the proposals in the consultation to allow homeowners to rent out their property for a set number of nights per calendar year.

Planning application fees

- 5.7 The proposed suggests the planning fee for a C5 proposal would be the same as an application for a C3 dwellinghouse, and this appears to be reasonable.

Existing permitted development rights

- 5.8 The consultation suggests that a C5 Short Term Let should benefit from the same permitted development rights for extensions and alterations as a C3 dwellinghouse, and this is considered appropriate.

6. Alternatives Considered

- 6.1 The alternatives are not to respond to this consultation, or to provide different consultation responses.

7. Resource and Legal Implications

- 7.1 There are no resource or legal implications connected with responding to this consultation for this Council.

8. Consultation

- 8.1 This is a public consultation being run by the government.

9. Community Impact and Corporate Risks

- 9.1 There are no community impacts or risks to this council of responding to this consultation.

10. Other Implications

	Yes	No
Crime and Disorder		✓
Climate Change and Biodiversity		✓
Human Rights and Equality Impact the consultation seeks views on the potential impacts under the Public Sector Equality Duty	✓	
Safeguarding and Early Help		✓

General Data Protection Regulations (GDPR)		✓
Health and Wellbeing Improving the availability and affordability of homes could impact upon wellbeing	✓	

11. Appendices

Appendix 1: Consultation questions and draft answers for consideration

Appendix 1: Proposed consultation responses

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

Yes. The proposed introduction of a new use class that is separate to the use class for a dwelling would allow Local Planning Authorities (LPA's) to control changes of use through a planning application.

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

Yes. It would allow LPAs to assess and balance the impacts of new short term lets on a case by case basis.

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

Yes. It is considered this is sufficient clear to differentiate it from a C3 dwellinghouse.

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

Yes. It is noted that the consultation indicates any building that meets the definition of a C5 use at present will not be required to seek a planning application for a change of use. Whilst the premise of this is understood, it is considered that there is a risk that this introduces a loophole whereby homeowners will have the ability to introduce a short term let immediately prior to the rules taking effect. In order to manage the transition it is suggested that only properties that have a long-running short term let use, for example properties that have been in this use for at least 4 years, benefit from the proposed automatic classification as a C5 use.

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

No. In order to successfully enforce the proposed new use class the system needs to be simple and clear.

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. In principle this is a positive proposal, there will be locations where the positive economic impacts of the use of a dwelling as a short term let would outweigh the harm to the local community. However, the wording of the permitted development right proposed is confusing and open to misinterpretation. The permitted development appears to apply where 'there is no local issue'. It is not clear who assesses whether there is a local issue or what constitutes a 'local issue'. It is considered reference to local issue should be removed from the proposed permitted development right. It remains, that an LPA can seek to impose an Article 4 direction if it considers that the new permitted development right would be detrimental to the locality.

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. It is sensible that permission would not be required to reinstate a dwellinghouse use.

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

Yes. There are no impacts that would likely necessitate conditions, however it is considered that it should be a condition of the permitted development right that the property owner notifies the LPA of the intention to change the use of a building from C3 to C5 prior to the use commencing to ensure the LPA can monitor the number of short term let properties in an area.

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. This is essential to monitoring the number of short terms lets in an area, and to aid assessment of the impacts of such a change of use.

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)?

No. It is considered that if the use of a building as a short term let is given a specific use class order, this should apply without exception because it would be very difficult to monitor whether a homeowner is renting out a property for part of a calendar year. Whilst other time limited permitted development rights exist, these are usually for uses that are distinctly different to the lawful use of a building or area of land, such as use of land as a

car park or a market. Therefore, the temporary use can be easily monitored, and enforcement action taken if a harmful breach occurs. As currently proposed the LPA would be required to distinguish between the homeowner and individuals renting out the property for a certain number of nights in a calendar year, and this is not a realistic prospect. The Government propose to control the use of buildings for short term lets in the interests of ensure affordability and availability of housing, and to maintain sustainable communities in areas where there is high demand for rental properties. It is considered that for this to be effective, properties should fall within either a C3 or a C5 use, and this should not be confused with temporary relaxations of the rules for homeowners.

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

None of the above. It would be very difficult for the LPA to monitor if a dwelling is rented out for a specific number of nights in any 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.

If the flexibility is to be provided, it is considered option ii would be most appropriate. Option i. does not explain what 'temporary sleeping accommodation' is and therefore this would make the proposed flexibility even harder for LPAs to monitor and enforce.

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.

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

Yes. There would be no reason to prevent the building from benefiting from permitted development rights provided by Parts 1 and 2 of the Town and Country Planning (General Permitted Development) Order 2015, as amended.

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

No.

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).

No

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. The proposals would likely result in increased workloads for local planning authorities. The proposals are not likely to impact upon businesses, but could impact upon communities in a positive manner.