

Response to Consultation:

Introduction of a use class for short term lets and associated permitted development rights

Background

On 12 April 2023 the Department for Levelling Up, Housing and Communities (DLUHC) published a national consultation which sought views on proposals to introduce a new use class for short term lets.

Uses of buildings and land are nationally categorised by virtue of the Town and County Planning (Use Classes) Order. Changes between uses that exist in the same 'Use Class' do not generally constitute development, and as a consequence do not require planning permission.

A typical residential house would fall within the *C3 Dwellinghouses* Use Class under the Use Classes Order. However, this use class make no explicit distinction between whether the house is used solely as a dwelling; or whether a room is rented out whilst the remainder of the property is used as a dwelling; or whether the property is rented out occasionally for short term lets.

The headline proposals in the consultation include:

- The proposed introduction of a new use class (Class C5) for short term lets;
- The potential introduction of a new permitted development right for the change of use from a dwellinghouse (C3) to a short term let (C5);
- The potential introduction of a new permitted development right for the change of use from a short term let (C5) to a dwellinghouse (C3);
- 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; and,
- The introduction of a planning application fee for the development of new build short term lets.

This consultation response represents the views of Lancaster City Council.

Questions

Q1 – Do you agree that the planning system could be used to help to manage the increase in short term lets?

Yes, the principle of creating a new use class to distinguish between short term lets and residential properties is welcome. Despite the contribution that short-term rentals make to the local economy, the current system provides insufficient protections against the proliferation of short term lets, which can have a detrimental impact on community cohesion and the character of a neighbourhood, as well as impacting upon the wider availability of residential supply.

Q2 – Do you agree with the introduction of a new use class for short term lets?

Yes, although we have concerns regarding the current drafting of the proposals (see other responses to questions, below).

Q3 – Do you agree with the description and definition of a short term let for the purpose of the new use class?

Yes. For clarity the proposed definition of a short term let use class for planning purposes is:

“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.”

We believe that this wording can potentially represent all of the short term letting scenarios that exist. However we also consider that revisions to the C Use Class should go further and we have suggested a possible approach in Q5. This approach would bring absolute clarity to an issue that continues to create a disproportionate amount of confusion to homeowners, tenants, neighbouring residents and letting companies alike.

Q4 – Do you have any comments about how the new C5 short term let use class will operate?

We make suggestions in responses to Q5, Q6 and Q12.

Q5 – Do you consider there should be specific arrangements for certain accommodation as a result of the short term let use class?

We consider that the Use Classes Order should clearly categorise the different forms of short term accommodation. We would suggest the following:

- C1 Hotels (We would suggest that this class is **AMENDED** to explicitly include Serviced Apartments, e.g. Aparthotels, etc).
- C2 Residential Institutions (Unchanged)
- C2A Secure Residential Institutions (Unchanged)
- C3A Dwellinghouses (Unchanged)
- C3B Dwellinghouses - upto six people living together and receiving care (Unchanged)
- C3C Dwellinghouses – unrelated single households (Unchanged)

- C3D **NEW** - Dwellinghouses – student housing – We would suggest a new use class to distinguish the often longer term, but still transient use of student accommodation from residential units.
- C4 Small Houses in Multiple Occupation (Unchanged)
- C5 **NEW** - Holiday Lettings – New use class to distinguish between (i) the letting out of rooms by homeowners, which could continue under Use Class C3 subject to stricter overnight limits (see Q12); and, (ii) the longer term holiday lettings that would be exceed those limits, and thus be placed in Class C5.
- Sui Generis – Hostels (Unchanged)

Q6 – 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?

No. The creation of additional permitted development rights regarding this contentious issue will only put local planning authorities under increased pressure to seek to introduce Article 4 Directions for those areas which witness the highest number of short terms lets. This additional workload, when multiplied across the country, will inevitably slow down the planning system further.

In the absence of an Article 4 Direction, current C3 dwellinghouses will be able to change use to C5 short term lets without the need for planning permission. In effect, this would liberalise the current position (currently short-term accommodation that is not ancillary to the main use of the dwelling would amount to a material change of use). We consider this to be a retrograde step that would have an unintended consequence of creating additional short term lettings.

The current national advice regarding Article 4 Direction Areas (i.e. that they should apply to the smallest geographical area possible) is rarely practical or transferrable to coastal resorts which often have dispersed, linear layouts, including lengthy promenades and secondary streets. These areas are neither 'small' nor spatially cohesive. Introducing controls via possible Article 4 Directions introduces further red tape in a system that requires simplification.

The compensation arrangements applicable to the introduction of immediate Article 4 Direction proposals would also persuade local planning authorities to introduce Article 4 Directions with 12 months' notice in order to avoid compensatory claims. This would have an adverse effect of encouraging property owners to convert their properties to short term lets prior to the introduction of the Article 4, thus circumventing the controls that many consider are needed.

If the intention is to restrict the unchecked growth of short term lets, then we would recommend that the C5 use class simply establishes the criteria whereby change of use will be required via the Use Classes Order.

Q7 - 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?

No. There may be locations where short term lets are considered an appropriate use in order to support the tourism and leisure economy. Some of these locations may be remote from settlements. Allowing them to change to dwellings without planning permission may cause unintended consequences of creating unsustainable permanent residential developments that are

remotely located from services such as schools, healthcare and local facilities. This pattern of development would, when replicated, fail to adhere to the principles of the Development Plan or the National Planning Policy Framework.

Q8 – Do you agree that the permitted development rights should not be subject to any limitations or conditions?

We do not agree with the introduction of permitted development rights for changes from Class C3 to C5 or vice versa. We consider that these changes of use should require planning permission where the impacts and benefits of each proposal can be appropriately assessed.

We are also of the view that the current C3 Use Class should have restrictions that are explicit in the Use Classes Order regarding the number of nights that a C3 use could be let out for (see Q12).

Q9 – Do you agree that the local planning authority (LPA) 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?

No. Fundamentally we believe changing from C3 to C5 and vice versa should require planning permission.

A notification system is no substitute for creating a Use Classes Order that is clear and which provides owners of properties with clarity regarding their rights to change between uses.

Q10 – Do you have any comments about other potential planning approaches?

Our preferred approaches are suggested in Q5, Q6 and Q12.

Alternatively, we would support short term lets (that exceed the defined number of nights specified in Q12) being added to the list of uses identified as Sui Generis uses (i.e. not in any use class, and thus always requiring planning permission).

Q11 – Do you agree that we should expressly provide a flexibility for homeowners to let out their homes (C3 dwellinghouses)?

Yes. However the legislation needs to be amended to differentiate between short term lets more effectively. This should distinguish those uses that maintain an element of continued residential use (i.e. a resident who lets out a room(s) within their existing dwellinghouse, and the proliferation of full property AirBnB-type short term lets and other similar holiday lettings.

Q12 – If yes (to Q11), 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.**

We believe option (ii), 60 nights per calendar year, is appropriate. If the number of nights exceeds this figure, we believe that the use should be considered to be Class C5.

Q13 – 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.**

We consider option (ii) would provide more clarity for homeowners.

Q14 – 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. It is vital that the costs of administering this system via the planning process are covered by appropriate planning application fees.

Q15 – Do you agree with the proposed approach to the permitted development rights for dwellinghouses (Part 1) and minor operations (Part 2)?

Yes. We consider that the existing permitted development rights regarding extensions, enlargements to property and minor operations can also apply to short term lets.

Q16 – Do you have any further comments you wish to make on the proposed planning changes in this consultation document?

Above all, this Council does not consider that the increased use of Article 4 Directions is desirable, practical or in the interest of transparent planning. Please take the opportunity to make the C-Use Classes clear at a national level.

Q17 – 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).

A proliferation of short term lets could result in a rise in accommodation which does not benefit from adequate disabled access (at the expense of hotels who do usually ensure such access is provided). This may result in an adverse impact on people with disability.

Authorisation

Report Sign Off Mark Cassidy, Chief Officer - Planning and Climate Change, Lancaster City Council	23 May 2023
Planning Regulatory Committee Consultation Councillor Sandra Thornberry Chair of Planning Regulatory Committee, Lancaster City Council	24 May 2023
Business Committee Sign Off and Authority to Submit Councillor David Whittaker Chair of Council Business Committee, Lancaster City Council	

Background Files

The scope of the DLUHC consultation is available here:

<https://www.gov.uk/government/consultations/introduction-of-a-use-class-for-short-term-lets-and-associated-permitted-development-rights/introduction-of-a-use-class-for-short-term-lets-and-associated-permitted-development-rights#introduction>