

# GREATER **LONDON** AUTHORITY

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**Department: Planning & Regeneration**

The Rt Hon Sir John Whittingdale OBE MP  
Minister of State Media, Tourism and  
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100 Parliament Street  
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Date: 13 June 2023

Dear Secretary of State and Minister of State,

**Re: Government Proposals to manage short term lets**

Thank you for the opportunity to contribute to the consultations on a proposed register for short term lets (STLs) and parallel proposals relating to use classes and permitted development rights (PDR).

The Mayor views that planning is not an appropriate way to control STLs in London, and that the city should be allowed to operate a licensing scheme to control the number and spatial distribution of STLs.

The proposals in both STL consultations are presented as a means to address the acute pressure STLs place on the housing market in some places, particularly the impacts that they have on the supply and price of private rental properties. However, the proposals do not grasp the full extent of the problem in London: neither the rate and scale at which homes are being lost to STL use, nor the problems with London's existing 90-day let provisions, nor the severe resource constraints faced by Local Planning Authorities.

Despite a lack of comprehensive data about the scale and distribution of STLs and indications of the severity of the current situation, the planning proposals as set out in the Government's consultations would produce a more permissive stance than at present, without the ability to quickly tighten controls where this is needed. This would effectively be opening the flood gates to further housing losses, in some places faster than new stock is

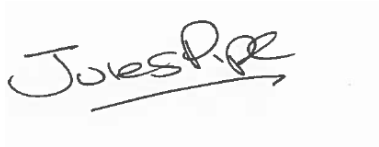
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added. Without legislation to require short-term letting platforms to share data with LPAs, this would all be happening in the dark.

While a register could go some way to addressing data needs going forward, it lacks the accompanying powers and enforcement resources needed to properly protect housing and re-balance housing markets that are already seriously skewed.

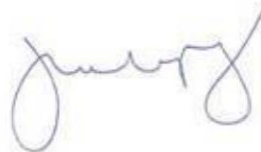
The best way to do this currently, given wider systemic issues in planning, is to introduce a new mandatory licencing system for short-term letting. This would introduce the ability to control numbers and distribution through quotas. Licencing systems can be self-financing, providing a dual benefit of ensuring that there is also appropriate resource to underpin effective enforcement.

Yours sincerely,

A handwritten signature in blue ink that reads "Jules Pipe". The signature is stylized with a long horizontal line extending from the end of the name.

**Jules Pipe**

Deputy Mayor, Planning, Regeneration and Skills

A handwritten signature in blue ink that reads "Tom Copley". The signature is stylized with a large, looped initial 'T'.

**Tom Copley**

Deputy Mayor, Housing and Residential Development

## **Mayor of London Response to DLUHC consultation on the introduction of a use class for short term lets and associated permitted development rights**

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

No. In London, the planning system already includes a mechanism designed to manage short term lets (STLs) by requiring a planning permission for a change of use where a home is being used for this purpose for more than 90 days in a calendar year. Recognising the tensions between the strategic need to deliver homes for Londoners and the need to ensure adequate accommodation to support the visitor economy, the London Plan 2021 contains policies that both seek an adequate supply of visitor accommodation in the right locations and require boroughs to take into account impacts on housing stock and local need, when considering applications for a change of use to STLs. Some of London's Local Planning Authorities (LPAs) have introduced local policy to further nuance this position, accounting for local context.

Even with planning mechanisms in place in London, the ability to understand the distribution and extent of unlawful STLs, fully assess their impacts and - where required - control them, is limited, and the Government's proposals do little to address this. Boroughs currently attempt to use various means to detect and/or enforce against them in different parts of the city, recognising a growing problem that is incompatible with meeting strategic housing delivery, but report limited success particularly given resource challenges.

Data from London in 2019<sup>1</sup>, suggested 23% of properties - amounting to more than 11,000 homes - let on the Airbnb platform could be in breach, with 50% of these concentrated in just 5 boroughs. This is likely to be a conservative estimate. 'Super Hosts' linked to 10 or more properties accounted for 15% of lettings, implying a significant business enterprise for some, given nightly rates are much higher than equivalent residential tenancy rates. Yet the 5 boroughs reported no successful prosecutions between 2015 and 2019, and only small numbers of enforcement and planning contravention notices served, with few applications to formally secure change of use to STL. This demonstrates that whilst the planning system should theoretically be capable of managing increases in STLs, without further controls or effective means of monitoring in place it is unlikely to be able to address concerns. Neither will the register proposals suffice, as set out in Mayor's separate consultation response.

Moreover, nationally, broader issues relating to the capacity of LPAs mean the planning system is ill-equipped to act with the scale and speed necessary to address issues where there are large numbers of existing STLs or where unexpected proliferations arise. This reflects:

- the extent of recent change

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<sup>1</sup> [GLA, 2020 – Housing Research Note 2020/04](#)

- lack of up to date adopted plans and policy around STLs
- expansion of Permitted Development Rights (PDR) and restrictions on the introduction of Article 4 Directions
- challenges in recruitment
- the fact that fee income does not cover costs.

Alongside addressing these, to have any significant impact, any planning system proposals would need to be supplemented by further tax and regulatory measures, including a means of better understanding the distribution and nature of the issue in different areas.

Given the extent of barriers that would need to be addressed to enable effective management through the planning system, it is proposed instead that there should be the ability in London to introduce a licensing system (though a similar mechanism may also be helpful elsewhere). This would place limits on the number of available licenses and fees would cover an appropriate enforcement resource.

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

No. While superficially it presents as a better control, for the reasons stated above, a licencing proposition is more likely to be effective at tackling the issues at present.

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

Notwithstanding the position that a licencing solution is preferable, yes, in planning terms it is appropriate to define a STL as accommodation that is not in use as a permanent/main residency. This is where the main impacts derive from. However, it would be adding to a plethora of definitions for different purposes including business rates, tax relief criteria and council tax – for instance business rates must be paid on properties available to let for more than 140 days a year, and let for at least 70, with tax relief if the property qualifies as a ‘furnished holiday let’ (available for more than 210 days and actually let for more than 105 with limited extended lets). Careful consideration would be needed of the impact of the inter-relationships between different definitions and related management mechanisms.

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

See Qu 1. Notwithstanding the position that a licencing solution is preferable, whilst the proposals follow established practice when new use classes are introduced, they are highly risky in the absence of adequate supporting information and control mechanisms. It would legitimise overnight properties that have been potentially operating unlawfully and likewise result in the loss of housing stock without an understanding of the scale of the issue. It would also undermine policies that seek to direct visitor accommodation to particular

locations to optimise their impact (e.g. for town centres) and balance economic and housing needs.

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

Notwithstanding the position that a licencing solution is preferable, no, this is unnecessary. The examples given are handled by ancillary use flexibilities which can be controlled by condition.

**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)?**

Notwithstanding the position that a licencing solution is preferable, no, this creates a more permissive situation than the status quo, and this has already been a significant contributor to a loss of homes which is very difficult to reverse. It has the potential to result in further significant losses to the dwelling-stock in some areas. This is not acceptable given the extreme demand for, and acute lack of supply of, homes in London.

Whilst Article 4s are in theory a means to control such permitted development, the government's approach to controlling these in recent years (e.g. restricting their application to the smallest geographical area), the year-long lead-in time for introduction combined with the time it takes to produce new local planning policy for the Article 4s to have the intended impact, means that they are not a sufficiently responsive mechanism where there is an emergent or established issue with STLs. Furthermore restrictions that meant they can only be applies to the smallest geographical area means the problem is likely to shift around – particularly in large cities where multiple areas are desirable for visitors - rather than be conclusively dealt with.

It is understood that this is proposed to allow flexibility where there is not an issue with STLs, and to reduce the risk to landlords who can move between C3 and C5 as demand allows. Without the ability to revert to C5, there is the risk they may not convert to C3 at all if C5 proves to be generally more lucrative and reflected in a value premium (as has apparently happened in some places with the C4 use class where Article 4s are in place). However, given the cumbersome mechanisms needed to remove that flexibility where there is an issue, if a planning solution is pursued, it would be more appropriate to encourage the use of Local Development Orders (LDOs) – an existing planning tool - to permit this flexibility if it is desirable for local economic reasons. Given the extent of the housing crisis, and the flexibility proposed in relation to the C3 use class in any case, a precautionary rather than permissive approach is warranted. The best way to do this, however, is through a London-wide licensing scheme.

As stated above, policies are already in place in London (and elsewhere) to encourage the development of additional visitor accommodation in selected locations where they can best

contribute to other objectives such as town centre vitality and viability, and that of the broader Central Activities Zone (CAZ). In order for these to be effective and secure their intended 'curation' effect, and balance strategic housing and economic needs, it is important that they are not undermined by new widespread permitted development rights (PDRs).

## **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 dwelling-house (b)?**

Notwithstanding the position that a licencing solution is preferable, if a planning approach is pursued as proposed, this is welcome to allow units to [re-]enter the C3 supply. However, there would need to be a mechanism to ensure appropriate residential quality and affordable housing contributions. Under a licensing system, the home would also be able to be used either as a home or STL for the lifespan of the license, assuming the planning position enables this, and at the end of this period, the license would simply expire reverting the home to residential only use if not renewed.

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

As per the response to Qu.7, at a minimum, residential space standards linked to C3 would need to apply in order for C5 to benefit from PDR. Otherwise, it could be a route for substandard, poorly designed, permanent accommodation to gain permission through the back door. Likewise, there should be a mechanism to secure affordable housing contributions where the policy threshold is reached, otherwise, this could again be used to circumvent requirements.

## **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?**

Notwithstanding the position that a licencing solution is preferable, yes, if the planning solution is pursued, it will be vital for policy development and other approaches (e.g. Article 4s) for authorities to be better able to understand the extent of short term letting in their area and net flows in the dwelling stock.

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

Alternative planning approaches, including that in place in London, all suffer from a lack of intelligence about the existing extent and distribution of STLs, and resources to pursue them

as intended as set out in the response to Q1. The sui generis 'class', in which STLs sit, is becoming bloated and the UCO and permitted development regime is very complicated. Notwithstanding limitations raised throughout this response on the Government's proposals, a new use class is preferable to this or alternatives (including to the existing London specific provision) insofar as it brings benefit of being able to target flexibilities and controls.

Local Authorities would be greatly aided in their understanding and control of STLs by the passage of legislation to require platforms such as Airbnb to share their data with enforcement agencies. In London, this should be with the entity running the new STL licensing scheme. Cities such as Barcelona have already secured data sharing with platforms. France has passed national legislation to secure this, and the passage of EU-wide legislation requiring data-sharing is already underway.

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

No. The Mayor acknowledges that there are benefits for householders to be able to generate extra income if they don't need their homes for part of the year. However, flexibilities are already provided by the existing system (even outside of the current 90-day provision in London) if the use can be demonstrated to be incidental or ancillary to the use of the dwellinghouse as such, without a material change of use and this could instead be better communicated. If a material change of use occurs, it is appropriate that it should continue to be subject to planning control. Irrespective of this, if the whole dwelling is involved, then a licence should be required with mandatory data-sharing from letting platforms. This is because without this, it is very difficult to monitor the balance between the ancillary or incidental and main/primary uses, and controls are likely to be needed across both types of short term letting (i.e. full time/permanent and ancillary or incidental) to manage housing supply implications.

## **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?**

As set out in Qu. 1, it has proven impossible for London boroughs to track whether the 90-day rental ceiling has been breached, and this allowance is refreshed annually so any enforcement only has a short term impact. Similar issues would likely be present with any of the time periods suggested. Moreover, cumulative duration is not necessarily a good proxy for low impact. Other impacts such as those derived from the frequency of changeover and size of parties using the dwellinghouse would also need to be addressed, given they can considerably affect the quality of life of neighbours. As above, it will additionally be important for this type of STL to nonetheless be subject to licencing in order to better monitor issues arising and support enforcement.



**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?**

Notwithstanding the failure of the 90-night limit in London, and our view that no unregulated flexibility (licencing being the preferred form of regulation at least in London) should be given for entire-dwellings being let short term, a PDR is preferable to a C3 Use Class amendment, given that it can where necessary be removed and controlled by an Article 4.

**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?**

Notwithstanding the position that a licencing solution is preferable, yes, given this would be likely to have similar impacts and implications, particularly if there is a PDR to change to C3, there should be parity of fees.

It should also be acknowledged that all fees need to increase to properly resource planning departments.

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

Notwithstanding the position that a licencing solution is preferable, yes, if a planning approach is pursued, it is sensible to align these provisions to avoid further complicating the system.

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

It is of concern that there is no impact assessment accompanying the proposals. Many of the issues raised in this response might have been identified through a robust assessment.



If the government is fully committed to using a combination of the UCO and GPDO plus Article 4s to control such uses, they must reform the approach to Article 4s to make them more agile. The Mayor of London should also be given the ability to introduce equivalent controls and designations at the London level, where strategic benefits or risks are identified.

**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, by encouraging further loss of private rented homes in the absence of the ability to immediately control this, the proposals are likely to adversely impact those groups that are particularly dependent on the private rental sector, and affected by increasing competition for rents. In London, this applies particularly to certain ethnic groups (non-British White and Chinese); more than 20% of lone parent households, households with health or disability inequality, and families with dependent children also live in PRS which is a significant proportion<sup>2</sup>.

The loss of homes to STL use is also contributing to the crisis in supply and standards of temporary accommodation. Fifty per cent of the heads of households accessing temporary accommodation identify as Black, Asian, Mixed or another ethnicity. That is compared to just 15 percent identifying as these ethnicities in England as a whole<sup>3</sup>. Mother-led single parent households are also strongly overrepresented in temporary accommodation.

In comparison, the economic benefits of STLs accrue primarily to homeowners, but there is strong ethnic inequality in homeownership in England. While 68 per cent of White British households own a home, only 20 per cent of Black African and 17 per cent of Arab households owned a home<sup>4</sup>. Granting PDR will allow predominantly white homeowners to benefit from this source of income, while those who don't own housing are shut out from this wealth, exacerbating wealth and income inequality.

It is clear therefore that introducing PDR and ushering in an even less regulated STL regime will exacerbate inequality in England.

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<sup>2</sup> Housing Research Note 8 Housing and race equality in London: An analysis of secondary data, GLA. 2022, Census data 2023

<sup>3</sup> Still Living in Limbo, Shelter 2023.

<sup>4</sup> Ethnicity Facts and Figures, MHCLG 2020

**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**

Yes, it would benefit those whose business is STLs and ancillary services (e.g. cleaning, maintenance) by enabling continuing expansion where there is demand, and further increase rental prices in the remaining PRS to the benefit of landlords. PDRs also benefit these groups by providing flexibility to move between different market sectors according to demand. This is particularly beneficial should there be dramatic fluctuations as experienced with the Covid pandemic and due to major events. However, as stated above, there may also be more negative impacts of a more permissive approach undermining objectives to curate and carefully manage areas such as town centres which may be to the detriment of other businesses, including hotels and food and drink providers.

## **b) local planning authorities**

Yes, because of the onus being on local planning authorities (LPAs) to introduce further mechanisms to control the permissive stance, it would considerably increase the burden on LPAs in those places which already have a significant number of STLs and need to address their impacts/stem further losses. Engagement with London boroughs ahead of this consultation response indicate that many wish to limit the number of STLs in order to protect housing supply, and therefore would want to make Article 4 directions, but have planning teams that are already under resourced and overburdened.

It is also likely to make STLs and their impacts more widespread by introducing a permissive regime. This is further compounded by a lack of comprehensive information about the existing extent of STLs, and the resourcing issues referenced in the response to Q1. Introducing a PDR would make all aspects of the planning attention (policy, development management, enforcement) needed extremely challenging and likely to be at the expense of other work areas.

## **c) communities?**

Yes, a permissive regime would be likely to increase the impact on communities in advance of necessary controls being introduced. Impacts would relate to loss of permanent dwelling stock and resulting increases in prices, and also the erosion of a permanent residential population that makes local infrastructure such as schools and libraries viable. This is already happening in several London boroughs and a PDR for STLs would exacerbate this situation. In addition, the impacts of a transitory population in terms of reduced local connections, unusual times of arrival and departure, lack of local knowledge regarding waste and recycling, parking and public transport which would also impact on the quality of life of the remaining permanent residential population.