

Short term holiday let accommodation

1.0 What is the issue?

1.1 A rapid and uncontrolled increase in the number of residential properties being used in their entirety for short term holiday let accommodation (an 'Airbnb' type use) in tourist hotspots such as the Isle of Wight can have the following negative effects:

- A reduction in available housing supply locally;
- Increases in rental levels for all; and
- Loss of community cohesion in some areas

1.2 The short term letting of entire residential properties reduces the permanent housing stock that is available within the traditional rental or sale markets, which not only means less housing is available but also pushes up prices on those properties that do become available for sale or rent. High turnover of visitors/renters within a property or area can also impact negatively upon the decreasing number of permanent occupiers, therefore reducing the overall sense of community.

2.0 How has it affected the island?

2.1 The housing situation has fundamentally changed on the Island over the last 18 months and there are very few properties available to rent on the open market. The council has purchased data from housing market estate agents that indicate that there has been a severe reduction in homes available to rent on the Island - from an average of 350 homes per month being available up until December 2019 this rapidly reduced to around 60 homes per month by October 2021 at all rent levels within the housing market. This equates to an 83 per cent loss of availability of Private Rented Sector (PRS) properties since the start of the Covid-19 pandemic.

2.2 The increased costs to private landlords connected with increasing regulation and taxation introduced nationally over the last 12 months has also prompted many landlords to exit the private rented sector all together and the council does not have any legal means of preventing them doing so. The Private Rented Sector on the Island has traditionally accommodated around 18 per cent of all households which equates to around 15,000 families. We also estimate that at least a third or around 5,000 rental properties have been sold privately and lost to the rental market and unfortunately this trend is continuing with higher houses prices and off-Island demand.

2.3 There is currently little security of tenure in the private rented sector due to this legislation and further national legislative changes are seeking to remove the Section 21 eviction process. This proposed legislative change, in our view, unfortunately only adds to the incentives for current private sector landlords to sell-up at the current time given that house prices have increased by up to 25 per cent over the last 12 months on the Island.

2.4 One impact of these regulatory changes or proposed changes is that many traditional landlords or property owners have also shifted in large numbers to the "staycation" market including 'Airbnb' where there are higher weekly profits and at present, less regulation. The attractiveness of the island as a tourist and visitor destination means that short term holiday lets are in high demand.

2.5 Council Tax records indicate a 44% increase in the number of properties registered as holiday lets for business rates purposes since May 2019:

- May 2019: 915 properties in the business rates list registered as holiday accommodation
- May 2020: 1,076 properties
- May 2021: 1,213 properties
- May 2022: 1,314 properties

2.6 Whilst short term let holiday accommodation is not the only reason the island faces the housing issues it does, it is one of a combination of factors that has resulted in a housing crisis for many working low-and median-income Island families including many keyworkers in health, social care, and other essential public services.

3.0 What is the current planning position?

3.1 Currently, national planning legislation requires property owners to apply for planning permission when there is a 'material change' in the use of the property and in this case it would be from Class C3 (dwellinghouse) to a Sui Generis use (short-term holiday let). However the phrase 'material change' is open to interpretation and dependant on various factors as the property essentially remains in a form of residential use, albeit not long term, and any such applications or enforcement cases would be dealt with on a case by case basis and are a matter of judgement. The judge in case of **Sheila Moore vs Secretary of State for Communities and Local Government (and others) 2012 EWCA Civ 2012** commented:

'..whether the use of a dwelling for commercial letting as holiday accommodation amounts to a material change of use will be a question of fact and degree in each case, and the answer will depend on the particular characteristics of the use as holiday accommodation. Neither of the two extreme propositions – that a dwelling house for commercial holiday letting will always amount to a material change of use, or that use of a dwelling house for commercial holiday lettings can never amount to a change of use – is correct.'

3.2 The result of this means that the IWC is not automatically aware when entire homes become used for short-term lets on a permanent basis (as no change of use may have occurred), and to prove that a 'material change' in the use of the property has occurred the IWC would be reliant on complaints from members of the public and then need to undertake a case-by-case assessment to determine whether a change of use has occurred and if an application is required.

3.3 In such cases the IWC would need to consider factors such as the number of people occupying the property, the number of separate lets over a given period, parking and refuse issues and any disturbance to the residential character and amenity before deciding whether planning permission will be required. If an application is then made, it would currently be considered against the policies of the Core Strategy that were adopted in 2012, none of which adequately deal with a sector and issue that has seen exponential growth in the last 5-10 years. In short, the current legislative and policy situation is one that lacks clarity and allows ambiguity.

4.0 Could the IPS introduce policy to offer control?

4.1 The IPS cannot change planning legislation, i.e. it cannot alter the fact that at present short term holiday let accommodation falls within residential use class C3 unless a

material change of use is considered to have taken place and there is no definitive or consistent trigger for what constitutes this material change. The Government has recently launched an evidence gathering consultation¹ on the issue of short term tourist accommodation with a view to potentially introducing some form of control mechanism through the planning system. This approach could mirror the view of the sector itself as last year a comprehensive report by Airbnb² to Government recommended the creation of a government register of short lets and a change in national policy requiring landlords to get planning permission before renting an entire house as a short let for more than 140 nights in a year. Whilst this offers a direction of travel for national policy, it does not however change the current legislative framework that the LPA has to operate within.

- 4.2 However the IPS can seek to include a policy that provides a small element of control to this issue by being clear as to where on the island the Council would support such change of use applications if there were made, and conversely the circumstances where they would not.
- 4.3 Within the core tourist accommodation areas, short term holiday let accommodation will be supported in principle as it would help support the core tourist and visitor function of these areas. Outside of these areas, then only if it could be clearly demonstrated that there was no adverse impact on existing residential properties
- 4.4 The more challenging aspect of this issue is the inability at the current time to rely on a single legislative definition of what the 'material change' would be in the context of a change of use of an entire property from Class C3 to Sui Generis (short term holiday let).
- 4.5 There are however a number of factors and issues that the Council would consider in such a case, including but not restricted to:
 - i. parking – are the number of vehicles and movements associated with the property in excess of a 'single household';
 - ii. patterns of arrival and departure;
 - iii. the number of guests using the property;
 - iv. the length of time guests stay at the property;
 - v. refuse and recycling collection issues;
 - vi. whether the property is paying Business Rates rather than Council Tax
- 4.6 The existing threshold for commercial activity that triggers a property owner being able to pay Business Rates rather than Council Tax is 140 days within any calendar year.
- 4.7 It is important to note that many properties that are let on a short-term basis are made available while their owners are away on holiday or for work purposes or are used during the week for work and left empty at weekends. Because these owners live in the property for some of the year, allowing their property to become a short term let whilst away is a positive use of the space, does not impact on the availability of housing for long-term rental or occupation and provides local economic benefits. There are also a number of short term lettings for individual rooms or parts of a property with the owner remaining in situ.

¹ [Government launches review into short-term tourist accommodation - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/government-review-into-short-term-tourist-accommodation)

² [UK Registration Whitepaper 2021.pdf \(airbnb.com\)](https://www.airbnb.com/press/uk-registration-whitepaper-2021.pdf)

4.8 It is important to note that any such policy should also exclude purpose-built tourism accommodation (for example, glamping sites, hotels, B&Bs) as these do not compete directly with local people's need for housing.

5.0 What are the enforcement / resource implications of such a policy?

5.1 In simple terms, any property that is being used in their entirety for a short term holiday let and where the Council considers that a material change of use has occurred (see paragraph 3.3 and Section 4), would be required to submit a planning application for change of use from C3 to Sui Generis. Operating without planning permission could be considered an unauthorised change of use. In such cases, the Council would be able to take appropriate enforcement action, which can include serving an Enforcement Notice to stop the use or request a planning application is made to authorise the use depending on the location of the property.

5.2 Enforcement investigations would have to consider whether the range of factors discussed in paragraph 3.3 and section 4 of this paper combine to result in a material change of use of the property having taken place.. There are clear resource implications associated with the introduction of this policy if the number of cases the LPA is asked to investigate increases, both within Enforcement and Legal services to ensure a thorough application of policy and process. Through a revised Enforcement Strategy, the Local Planning Authority is currently assessing the ability for Town, Parish & Community Councils to contribute towards an enforcement post that may then allow an element of their 'paid for' resource to look specifically at this issue, if it is prevalent within their parish.

6.0 Conclusion

6.1 Given the housing crisis on the island and the ever reducing number of properties available for rent and sale on the market, it is considered necessary to introduce a policy within the IPS that offers some form of control as to the location of properties moving from Class C3 residential use to Sui Generis (Short Term Holiday let accommodation). As the island benefits greatly from tourism and recognises the important role that the visitor economy plays in the success of the island, any such applications that were made and considered against this policy should be supported if the property location is within one of the core tourist accommodation areas identified on the Policies Map, however outside of these areas such applications would not be supported in principle unless it could be clearly demonstrated that there was no harm to the amenity of existing residents.

6.2 As the IPS moves through the formal plan preparation stages, there may be adjustments or changes to legislation covering short term holiday let accommodation and the inclusion of a policy at this time would allow that draft policy to be revised in line with any national policy changes.