



RTPI Cymru

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e-mail response sent to: planconsultations-j@gov.wales

Dear Sir/Madam,

Response to: Planning legislation and policy for second homes and short-term holiday lets

The Royal Town Planning Institute (RTPI) is the largest professional institute for planners in Europe, representing some 27,000 spatial planners. RTPI Cymru represents the RTPI in Wales, with 1,300 members. The Institute seeks to advance the science and art of planning, working for the long-term common good and well-being of current and future generations. The RTPI develops and shapes policy affecting the built environment, works to raise professional standards and supports members through continuous education, training and development.

Thank you for the opportunity to respond to the above consultation. Our response to the consultation questions along with some general points are set out below.

RTPI Cymru is not opposed in principle to the secondary homes or short term lets but we recognise that the level and concentration of such uses can cause impacts on local communities, which may require effective control in some circumstances.

Pressure on housing in Wales is a well-documented and discussed issue and there are many factors contributing to this. The spiralling use of housing for short-term holiday lets and second homes, particularly in rural areas, is one such factor and has become the subject of controversy across Wales, evoking strong opinions for and against.

RTPI Cymru has published a paper to explore the issues and potential solutions with specific relevance to planning. This is a complex matter and as such will require multi-faceted solutions, many of which will not be planning, such as taxation and licensing. The document can be read [here](#). This research was compiled following a roundtable discussion on the topic with RTPI members from across Wales in September 2021 and webinars to discuss balancing support for tourism with local community needs and the Welsh language. It is clear from these discussions and consideration of the detailed issues that the planning response to this issue is complex and will take time to implement effectively.

There is a particular, and valid, concern that the investment in time required by Local Planning Authorities (LPAs) is not available to effectively support the implementation of proposals, and this should be a primary consideration in a final way forward.

RTPI Cymru's response to the consultation on Local taxes for second homes and self-catering accommodation (November 2021) can be read [here](#).

If you require further assistance, please contact RTPI Cymru on 020 7929 8197 or e-mail Roisin Willmott at walespolicy@rtpi.org.uk

Yours sincerely,



Dr Roisin Willmott OBE FRTPi

Director

RTPI Cymru

CONSULTATION QUESTIONS

Proposed amendments to the Town and Country Planning (Use Classes) Order 1987 (UCO)

Q1 Do you agree or disagree that amending secondary legislation as proposed would be an effective means of helping to address the impacts of second homes and short-term holiday lets that have been identified in some communities?

RTPI Cymru supports the three-pronged approach incorporating taxation measures, a registration scheme and planning measures.

It is important that any proposals look to overcome any loopholes to ensure they do not undermine the spirit of the proposals. Linking planning measures, taxation proposals to a compulsory licensing scheme would support this, i.e. to be marketed and let for holiday letting a licence needs to be in place, and the licence will only be granted if in accordance with planning requirements and registration for taxation. This would also bring forward other benefits in terms of the health and safety of users and managing the properties effectively.

In relation to planning measures which could be taken forward to support this, unfortunately these are not straightforward, and none offer quick solutions to effectively manage the use of market homes for holiday use, whether second homes or short-term lets. In any solution, it is more straightforward for planning to restrict new homes in relation to becoming second

homes or holiday lets, but not the older housing stock. It is broadly recognised that it is the existing housing stock where the problem lies.

We note paragraph 4.6 of the consultation document states (in relation to the proposals to amend the Use Classes Order) “The principal defining characteristic of identifying uses that fall within the new use classes will be the number of days dwellinghouses are occupied, and by whom. Whether a material change of use occurs will be a matter for each local planning authority to consider on a case-by-case basis.” Whilst an amendment to the Use Classes Order could offer a relatively quick change and appear to offer the solution, this would be extremely difficult to evidence and enforce for already stretched planning enforcement teams, who are already currently operating beyond their capacity limits. Proving the material change of use will be challenging and time consuming for LPAs. Linking this directly to the licensing scheme through regulations, would however provide some assistance.

The proposals set out in this consultation, to amend the Use Classes Order and then use an Article 4 to provide the targeted approach needed, would also mean that no fee would be attached to any application for planning permission; thus exacerbating the LPA resource issue.

In relation to the definition of development, s.55 of the Town and Country Planning Act 1990 defines the meaning of ‘development’ and is a crucial part of planning legislation. The use of a dwelling as a second home or a holiday let does not constitute development under the Act. It is therefore more difficult to introduce planning tools or interventions to address second homes or holiday lets.

Our recommendation to Welsh Government would be to focus their efforts on the planning measures to amend legislation to change the definition of development, to include short-term holiday lets. We recognise this would not be a quick solution. In September 2021, the Counsel General and Minister for the Constitution announced the legislative programme which would include a draft consolidation Bill to bring the law on planning into a single statute, and RTPI Cymru welcomes this. This would provide the opportunity to also include the change in the definition of development and we would recommend this is brought forward at the earliest opportunity. Regulations to implement this legislative change would also need to be brought forward and would therefore require investment in time by Welsh Government. This proposal for planning would, however, only be effective if accompanied by a licencing scheme and taxation changes, as well as resourcing LPAs to be able to implement the changes.

We note that in the Planning (Scotland) Act 2019 the definition of development has been amended: <https://www.legislation.gov.uk/asp/2019/13/part/3/crossheading/meaning-of-development/enacted> This amendment will now allow a planning authority to designate all or part of their area as a ‘short-term let control area’ allowing for differences in the impact felt. In a short-term let control area, the use of a property for providing short-term lets will be deemed to involve a material change of use of the dwelling house and so require planning permission.

“It will mean that the change of use from residential properties to short-term lets will be controlled under planning regulations. This allows decisions to be taken in line

with the council's local development plan and other material considerations." [Short-Term Let Control Area - City of Edinburgh Council - Citizen Space](#)

This is reinforced with a parallel licencing scheme which will address issues not controlled by planning, including environmental health considerations such as noise. The [Licensing Order](#) and [Control Area Amendment Regulations](#) were approved by the Scottish Parliament on 19 January 2022.

The linking of planning permission for a short-term let in a control area and obtaining a licence would address the issue of those houses already being used for short-term let, as they would need to apply for planning permission through a planning application or establish existing use that meet the legislative time limits through a Lawful Development Certificate.

We understand that Edinburgh City Council are moving forward in relation to a short term let control area [Edinburgh nears short term let control area decision | Scottish Housing News](#)

Q2 Do you agree that use class C3 should be amended and new use class C5 (Secondary Homes) and use class C6 (Short-term Lets) be created? If not, please explain why.

For detail please see our response to Q1.

We agree that a different use class for Secondary Homes and Short-term lets is required, as there is a difference in their intensity of use, however their impact on the housing availability for local people is the same.

We would recommend a change in the definition of development in the Act as a more effective planning response, although this will take longer to apply.

Q3 Do you agree with the descriptions of the new and revised use classes? If not, please explain why.

For detail please see our response to Q1.

We support the definitions for the proposed amendments to use class C3 and the new use classes C5 and C6. It will be essential that any proposals overcome any loopholes to ensure they do not undermine the spirit of the proposals. It would also be essential to provide clarity in non-technical language to promote understanding of the descriptions and reduce mis-interpretation.

Q4 Are there any scenarios whereby use as a dwellinghouse under use class C3 could become unclear? Please provide examples.

There are several situations where use as a dwellinghouse could become unclear, particularly at a time when there is more freedom and flexibility to work from home – or second homes etc. LPA Enforcement Teams are well placed to provide detailed case studies on such instances.

RTPI Cymru's key concern in this respect is the capacity of those already stretched planning teams, in particular enforcement teams. In addressing this issue through any of the options, resources for planning must be recognised and provided otherwise effective monitoring and delivery will not be achievable. Support should also be put in place to support the joint working that will be required across departments, including housing, planning, licensing etc.

Q5 Would you support amending primary legislation (i.e. the TCPA 1990) for the purpose of managing second homes and short-term holiday lets?

We consider this to be the most effective change that planning can make. Detail on this is provided under Q1.

As indicated in the consultation, changes have been made in Scotland. We consider these to provide a strong case study to support such a change in Wales.

Proposed amendments to the Town and Country Planning (General Permitted Development) Order 1995 (GPDO)

Q6 Do you agree the GPDO should be amended to permit changes of use set out in Table 2 if the proposed changes to the UCO are taken forward? If not, please explain why.

We support the observation in the consultation that this is not an issue across the whole of Wales and proposals therefore need to account for this.

We also welcome the proposal for C5 and C6 to be permitted to change to C3.

Q7 Do you agree the use of Article 4 Directions by local planning authorities provides an appropriate targeted response to a location-specific issue? If not, please explain why and/or suggest an alternative approach.

Please see further detail on this provided under Q1.

We would raise concern at the proposed permitted change of use, along with the use of Article 4 Directions, which would mean that no fee would be attached to a planning application. See proposals for “Control Areas” at Q1. This would further exacerbate the issue of resources available to LPAs to meet the requirements.

An unintended consequence of the use of Article 4 is that pressures in other locations, neighbouring the Article 4 areas could well increase, thus spreading rather than limiting the issues. As circumstances change, pressures may ease in some locations and grow in others so the Article 4 designations would need regular monitoring and review to test their relevance to appropriate areas; this would also take LPA resources to undertake the monitoring and development plan review.

Q8 In respect of change of use to a second home or short-term holiday let, where an Article 4 Direction is made, should applicants have a right to claim compensation if a local planning authority refuses permission or grants permission subject to conditions other than those imposed by the GPDO within the first 12 months?

If LPAs are faced with the threat of expensive and time consuming compensation claims and legal costs, it may dissuade them from effectively implementing changes to deliver the desired outcomes. A proposal should be considered to avoid this situation. The proposals in Scotland do not appear to be affected by this and would be worth investigating further.

Proposed amendments to Planning Policy Wales

Q9 Do the proposed amendments to PPW make it clear that the prevalence of second homes and short-term holiday lets must be considered by local planning authorities when developing the requirement for market and affordable homes within a particular

area and whether a local policy approach is required in a Local Development Plan (LDP)?

We support the appropriate updating of Planning Policy Wales to reflect the importance of this issue, while the proposed wording does draw attention to these matters. The following sentence, which appears to relate to paragraph 4.34 of the consultation document, could be expanded on and clarified further.

“In addition, consideration may be required regarding whether to restrict permitted development rights on new housing developments, through the production of an area specific Article 4 Direction to help manage changes of use of existing houses within communities.”

We understand the approach of using local occupancy conditions on new housing where it can be justified is an approach already successfully applied in various local areas of England, especially in national parks. The experience of applying such policies may assist in developing appropriate wording.

Q10 Do the proposed amendments to PPW support the proposed amendments to the: Town and Country Planning (Use Classes) Order 1987 (UCO); and Town and Country Planning (General Permitted Development) Order 1995 (GPDO)

Consequences of the proposed changes

See above – Q9

Q11 Do you consider the potential positive consequences of the proposed planning measures for the management of second homes and short-term holiday lets outweigh the potential negative consequences (or vice versa) regarding house prices and the impact on the local housing market? Please explain your response, with reference to evidence where appropriate.

See below – Q12

Q12 Do you have any comments or evidence about the potential consequences, both positive and / or negative, the proposed planning measures for the management of second homes and short-term holiday lets may have for local economies?

We know this is a regional and local issue, not a single national issue, it is felt differently across different parts of Wales. There are also coastal issues versus inland issues. Traditionally coastal areas have been accepted places for holiday / second homes. Coastal areas have become busier, and we have witnessed a creep into inland locations, which are becoming new hot spots but which do not always benefit from the tourism economy. The coastal tourism business environment was more accepted, but it is now spreading to the periphery where it is less accepted because it has a greater impact without benefit.

There is a growing concern amongst many regarding the impact on the Welsh language spoken in communities and the impact on the viability of rural communities for local services, including schools.

The loss of homes puts pressure for more rural housing in sites which are often located within sensitive landscapes or close to sensitive landscapes, which are popular for the tourism market.

Second homes have been blamed for increasing house prices in areas outside the reach of people who live in the locality because they have a higher income when compared to local earning potential. They are also characterised by limited occupation and in these cases offer limited support to the local economy or support for local services e.g. school and community facilities.

There are difficulties in establishing the direct impact attributable to second homes and properties for holiday lets. There are questions if they are solely responsible for increasing house prices, or a decline in local services. A key question is who owns the second homes and holiday lets i.e. who benefits from them? In some case it is local residents seeking to make an income through holiday lets and this in turn contributes to the vitality of communities. Some second homes are owned by people who are originally from the locality but have moved away (sometimes temporarily) for work but wish to retain a local presence.

Holiday lets play an important role in supporting the local tourism economy and the benefits this provides both to the tourism sector more widely and to local property owners who use holiday lets as an additional income cannot be ignored.

There are examples where holiday letting 'hot spots' can attract shops and businesses which would otherwise not have been present in a small community, adding local benefit and employment. An example of this is Benllech, Anglesey which has new convenience stores, a range of smaller shops (and businesses), a health centre, several restaurants, pubs, and takeaways etc.

It is not so clear cut that either second homes or holiday lets are negative for a local community; any solutions need to carefully balance the benefits with the negative impacts they are trying to solve and any planning tool will need to be carefully designed to be able to make these balanced decisions.

Q13 Applicable to local planning authorities only: Do you consider that local planning authorities have sufficient resources to undertake an appropriate level of evidence gathering, monitoring and enforcement for the effective implementation of the proposed planning measures? Please explain your response, with reference to evidence where appropriate.

No comment

Q14 Applicable to local planning authorities only: -What IT (back-office) system is currently used (including version number)? - What are your contractual arrangements (i.e. costs) for making changes as a result of a Welsh Government legislative change? - How long would it take to implement changes to your IT system? - What is the expiration date of your current contract with your IT system supplier? - How much staff time is required (per application) to manually enter applications into your back-office system where it cannot be automatically received?

No comment

Welsh language considerations

Q15 We would like to know your views on the effects of the proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you

think there would be? How could positive effects be increased, or negative effects be mitigated?

The proposals in the recent Welsh Language Communities Housing Plan consultation provides support for some of the overarching issues relating to the concentration of holiday homes and the impact on the Welsh language.

Further clarity would be welcomed on the role of planning and planners in strengthening placemaking to support the Welsh language through development planning and development management. A specific example of this is the need for greater clarity and guidance on TAN 20 (section 2.7 Defined Areas) of what it means for Local Development Plans to identify an area of sensitivity and/or significance. Proposals for managing second and short term holiday lets which allow for targeted management in areas which are identified through the development plan, would provide a more useful and effective tool.

General considerations

Q16 We have asked a number of specific consultation questions. If you have any related issues which we have not specifically addressed, please use the space below to raise them.

We recognise this is a complex issue but we strongly support implementing a number of interlinked approaches to address this very real issue to deliver sustainable communities in line with the Well-being of Future Generations Act 2015.

Our report on [Holiday Homes in Wales Research](#) is available and our response to the consultation on Local taxes for second homes and self-catering accommodation (November 2021) can be read [here](#).