

Briefing Note on Short term Lets

1 Introduction

- 1.1 There is no fixed definition of short-term lets but these are normally any residential tenancy of less than six months where utilities, television and internet are included in the rent. Properties are let fully furnished and landlords are expected to provide bedlinen and a fully equipped kitchen with pots and pans, china, glassware and cutlery.
- 1.2 This is the traditional definition, and in practice most short-stay rentals have until recently been measured in months or weeks, rather than days. Airbnb and similar operations have changed the business by making it much easier to find tenants, even at short notice, for much shorter periods of time.

2 Planning permission for change of use

- 2.1 In planning terms, planning permission must be obtained if there is any 'material' change of use to a property or building. In most cases, it is relatively straightforward as to what constitutes a material change of use (e.g. converting a house into a commercial building or a block of flats).
- 2.2 However, in some cases it is a matter of judgement on the basis of 'fact and degree'. For example, at what point does a residential house become premises whose main purpose is to offer accommodation for visitors? This issue is particularly relevant for bed and breakfast properties where the property is simultaneously a residential property and a commercial property.¹
- 2.3 The Council's Study, Cambridge Hotel Futures Issues and Options (June 2012) confirms the lack of distinction between residential units (C3 Class Use) intended for permanent residential use which are subsequently let out as serviced apartments. Appendix 1 includes an extract of the study which provides further information on the matter.

3 The 90 day limit in London

- 3.1 A 90 day limit, which is only applicable in London, was introduced under Section 44 of the Deregulation Act 2015 which amended the 1973 Act². This makes it clear that the use of residential property as temporary sleeping accommodation in Greater London does not represent a material change of use requiring planning permission. A number of criteria need to be satisfied; including the aggregate number of nights during a calendar year for which the property is used as temporary sleeping accommodation is not greater than 90 days.

¹ <https://www.visitbritain.org/pink-book/planning-and-building>

² Section 25 of the Greater London (General Powers) Act 1973 (as amended)

- 3.2 In January 2017, Airbnb, the world's leading short-term letting site, announced restrictions on London properties preventing letting of entire homes for more than 90 days a year through their website, unless the hosts confirm that they have the necessary planning consent to share their property more frequently. The use of short term letting sites has been criticised for contributing to London's housing crisis, removing properties from the capital's housing stock.

4 The Situation in Cambridge

- 4.1 Cambridge's Planning Service has received complaints from residents about individual properties that are used as short term lets. The duration of a visitor's stay varies and can lead to local amenity issues. These include disruptive visitors or laundry vans arriving on a daily basis.
- 4.2 Enforcement officers have served Planning Contravention Notices to determine if there has been a breach of planning control.
- 4.3 Officers from City Development Management and Planning Policy recently met to discuss the rise in complaints regarding short term lets and the impact of these uses in residential areas. The renting out of a residential property for short-term use does not constitute a material change of use from a dwellinghouse (C3 use) if the property continued to provide for the day-to-day residential needs of the occupants. For properties where short-term letting use, such as for Air B&B, gives rise to complaint, the Council would have to assess the pattern and nature of use of each property – as a matter of fact and degree - to ascertain whether a change of use has occurred. This will depend upon factors such as the aggregate number of days in any calendar year the property is being rented out, the turn-over and direction of different lettings over this period, the size and nature (hosted) of the accommodation being offered, the number of rooms being rented out and whether the renting is to unrelated individuals or to people living together as a single household, such as a families. Cambridge does not benefit from legislation which clearly establishes the 90 day restriction.

5 Cambridge's Policy Framework

The Local Plan 2006 'saved' policies

- 5.1 Policy 3/4 'Responding to context' requires planning proposals to respond positively to its context.
- 5.2 Policy 5/4 'Loss of Housing' clearly protects residential use from conversion to alternative uses unless one of the exemption criteria can be satisfied, none of which include short-stay accommodation.
- 5.3 Policy 6/3 'Tourist Accommodation' supports visitor accommodation that maintains, strengthens and diversifies the range of short-stay accommodation. Where this involves the conversion of an existing residential use i.e. a Class C3 dwellinghouse

or C4 small scale HMO, part of the accommodation must be retained as permanent residential accommodation.

The Emerging Local Plan

- 5.4 Policy 3 'Spatial strategy for the location of residential development' only allows housing to change to an alternative use in exceptional circumstances.
- 5.5 Policy 55 'Responding to context' requires planning proposals to respond positively to its context.
- 5.6 Policy 77 'Development and expansion of hotels' treats serviced apartments as a residential use and will therefore be managed under the various applicable housing policies in Section 6 of the Emerging Local Plan. This policy has not yet been subject to examination and may be subject to further modifications during the Local Plan Examination process. The Council is considering whether modifications are required.

Policy Implications

- 5.7 In the case where a material change of use is considered to have taken place i.e. the residential unit has changed to visitor accommodation on a permanent basis then there are policies in both Local Plans to protect against the loss of the residential unit.
- 5.8 However, the challenge remains of establishing that a material change of use has occurred. In the case of a guesthouse, if there is no material loss of a residential unit then policies regarding local context ensure that the impacts of the development on the site context are assessed and controlled.

6 Next Steps

- 6.1 Officers have concluded that the best approach to overcome the challenge of determining a material change of use from C3 residential to visitor accommodation would be to devise a means of assessing properties that are claimed to be in breach of a planning use. The assessment would consider a range of matters that would determine if a dwelling is no longer used for its intended purpose but rather as visitor accommodation which would require planning permission.
- 6.2 While no assessment criteria have yet been finalised, the assessment may involve questions centred around two areas of enquiry concerning how the property is let and how suitable the property is to operate as short stay accommodation. The following are examples of questions that officers are considering to help determine if the property is in breach of planning regulations in that a material change of use has occurred and whether formal enforcement action is justified. It is proposed that this work continues over the next few months to establish a consistent method of dealing with this issue.

- 6.3 The first section of the assessment is aimed at identifying the frequency of use as visitor accommodation and how it is managed.

How the property is let:

- Is the property the main residence of the property owner?
- Does the owner live at the property when let to visitors?
- Is the property leased to a company for the purposes of renting it out for visitor accommodation?
- Does the aggregate number of days let to visitors exceed 90 days in a calendar year?
- Are there limitations to the minimum number of days a visitor can stay? If yes, what are they?
- Are there limitations to the maximum number of days a visitor can stay? If yes, what are they?
- Does the owner pay Council Tax on the property?
- Is the letting of the property run as part of a business?

- 6.4 The second section of the assessment is aimed at identifying to what degree the property let to visitors is able to function as visitor accommodation without having an impact on residential amenity or other impacts which would amount to 'harm' in the planning context.

How suitable is the property to operate as short stay accommodation:

- What type of property is it? Detached; semi; flat; etc.
- Is the whole property let or only parts of the property? Please specify
- What are the adjacent uses? e.g. residential, retail with residential above. Please specify
- Is there off-street parking for visitors or occupiers of the unit? Please list the number of spaces
- Is there off-street parking for service vans serving the property?
- How often do service vans (e.g. laundry services) visit the property? Please detail frequency e.g. laundry van – daily; cleaner – daily; etc.
- Is there a separate main entrance to the property? If no, how many other properties share the main entrance?
- For properties with shared entrances not on a ground floor, is there a lift to the property?
- Is there a concierge service available? Please specify.

- 6.5 In addition to addressing short-term lettings through the planning enforcement process, planning duty officers and officers undertaking pre-application advice will also be made aware of the issues arising in order to provide appropriate advice to potential applicants.

Appendix 1: Extract from section 7: Cambridge Hotel Futures – Moving Forward

- 7.12.2 From a planning point of view, aparthotels, all-suite hotels and purpose-built serviced apartment blocks would fall within the C1 hotel use class, whereas residential apartments that are let out as serviced apartments would fall within the C3 residential use.
- 7.12.3 The distinction in use class terms between aparthotel and serviced apartments appears to revolve around a number of aspects. Aparthotels offer:
- A higher level of service – cleaning, laundry, food hampers, toiletries, towels provided
 - Letting on a daily short term basis, although some might require a minimum 2-3 night stay;
 - Reception facilities;
 - A hotel style booking system
- 7.12.4 If C3 residential units intended for permanent residential or second home use are subsequently let out as serviced apartments, there is no planning distinction between the uses, and planning will already have been granted without any occupancy conditions. The situation is further blurred if some units within a block are let for tourism use and others not. If a whole block becomes given over to tourism lets there may be a case for change of use. However in reality, residential apartments are often let as serviced apartments for variable periods of time dependent upon the owners' objectives. They may not therefore remain as serviced apartments on a permanent basis. Requiring a change of use may not therefore be practically possible to enforce.
- 7.12.5 It must also be recognised that residential apartments that are let out as serviced apartments for extended corporate stays compete as much in the residential lettings market as they do in the hotel market. Other options for companies to house their long stay visitors are to take a short hold tenancy on a residential property or possibly to buy a property as a company house or apartment.

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