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Planning Development Management
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Planning Directorate
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Consultation: Introduction of a use class for short term lets and associated permitted development rights

The National Fire Chiefs Council (NFCC) is pleased to respond to the consultation published on 12 April 2023 around an Introduction of a use class for short term lets and associated permitted development rights.

NFCC is the professional voice of the UK fire and rescue services (FRSs) and is comprised of a council of UK Chief Fire Officers. This response was put together by NFCC's Protection and Reform Unit (PRU).

This response was drafted in consultation with our members across the FRSs, and reflects their expertise and competence on the subject matter.

General Comments

NFCC support Government in their ambitions to better understand and regulate the short-term let market. We note that this consultation is one of two that are running concurrently across two Government Departments and we would encourage Government to look at both consultations together to ensure they complement each other and create a holistic short-term let sector, especially from a regulation point of view. We support a proportionate approach that ensures that the highest-risk properties are prioritized.

The introduction of a new 'use class' will have the potential to create additional burdens on the relevant regulating authorities and will vary from region to region. Some cities and towns, and rural or coastal areas will have a significantly higher predominance of holiday rental properties and the potential workload will be enormous unless a proportionate approach such as described above is applied.

NFCC anticipate that existing local authority planning and licensing teams will be responsible for the management of the planning and registration systems and any sampling or initial inspection arrangements for the higher risk properties if the 'proportionate' approach is

adopted. In terms of additional costs these would be incurred in providing additional capacity and expertise within those local authority teams.

NFCC believe that there is the potential that FRS teams may be consulted on planning and registration applications and further involved if higher risk properties are identified. Additional work would not be confined to frontline specialist inspecting staff, but also extra work for the administration and recording of inspections and any subsequent enforcement where the required standard is not met. However, the levels of additional workload for the FRS are unknown and will depend partly on the capacity and expertise of the local authority teams to carry out the safety inspections if implemented. There may be scope for some 'cost recovery' arrangement between local authorities and the FRS but this is likely to require changes to primary legislation and the complexity of management and cost effectiveness of such financial arrangements are unknown.

The FRS are already having challenges in recruitment, qualification and retention of specialist staff. The increased government expectations and workloads flowing from the Building Safety legislation are already providing a challenge. It is not anticipated that the FRS will have any capacity to allocate front line inspecting or administrative resources to short term let holiday accommodation except for the highest risk properties in line with existing risk based inspection programmes.

Yours sincerely,



Nick Coombe
Head of Protection Reform Unit
Protection and Reform Unit

Questions

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

Yes/No/Don't know.

Please give your reasons.

NFCC agree that by introducing a new 'use class' local regulators, including FRSs, would be able to identify premises which are being operated primarily as whole property short term lets. This will assist regulators to assess the 'risk' and provide a proportionate and balanced approach to safety.

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

Yes/No/Don't know.

Please give your reasons.

Please refer to our answer to question 1.

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

Yes/No/Don't know.

Please give your reasons.

NFCC does not agree with the current definition as is in consultation - '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'.

This current definition in the consultation will allow providers to 'game the system' by pretending that the dwelling concerned is their 'sole or main residence' despite them actually living elsewhere, sometimes for 100% of the time. The FRS have many problems identifying and taking actions against providers in such circumstances as we need to prove that the dwelling concerned is not their sole or main residence over a significant period of time. This is often impossible to prove.

We suggest that the definition is changed to "Use of a dwellinghouse (that is not simultaneously being used as a sole or main residence) for temporary sleeping accommodation for the purpose of holiday, leisure, recreation, business or other travel"

This will enable evidence of a whole property being used as a 'short term let' to be proven more easily over a shorter timeframe – such as some specific periods when being used as sleeping accommodation for the public. In such circumstances these are effectively business/commercial properties rather than residential dwellings and therefore a material change of use.

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

Yes/No/Don't know

Please make your comments here

NFCC agree that only whole properties falling within the definition of "Use of a dwellinghouse, (that is not simultaneously being used as a sole or main residence), for temporary sleeping accommodation for the purpose of holiday, leisure, recreation, business or other travel" should be classified as C5 short term let use class for planning purposes and require planning permission if changing from a C3 dwellinghouse.

NFCC also agree that some form of mandatory national registration scheme for all holiday accommodation types is essential to the FRS and Local Authorities. In our response to the DCMS consultation that is running concurrently to this one we have also provided some narrative about a 'proportionate' approach based on the nature and risk posed by short term let properties in relation to the safety related issues. This planning classification and requirement which focuses on whole property lets (not being used simultaneously as main or sole residences) will focus on those at highest risk.

If a registration scheme is introduced the FRS will be a statutory consultee for such planning changes as registration is 'construed' as Licensing within the Fire Safety Order. We believe Registration should be based on size and nature of properties and mitigate the costs and burdens to operators, the FRS, local authorities and to the scheme administration that will be managing the arrangements.

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

Yes/No/Don't know.

Please give your reasons here. If yes, please say what these should be.

NFCC do not consider that temporary accommodation (such as student residences) should need to be reclassified as short term lets as they should already be classified as HMO or student accommodation and regulated accordingly. Similar accommodation that is used as the main or sole residence for temporary or extended periods for specific purposes (ie Hostels, Refuges etc) do not fall within the definition as per Q3.

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)

Yes/No/Don't know.

Please give your reasons.

NFCC do not believe that there should be a permitted development right for dwellings that fall within the definition of the 'Short Term Let' class use as defined in Q3. This is focused on 'whole property lets' only which are not simultaneously being used as a main or sole residence. In these circumstances they are primarily being used for business/commercial purposes and not as a residential dwelling, and such significant material changes of use should be controlled in all cases, whether the geographic area is experiencing over concentrations of such use or not.

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 dwellinghouse (b)

Yes/No/Don't know.

Please give your reasons.

Returning a whole property short term let to 'dwellinghouse' use does not generate any negative or detrimental outcomes that need to be controlled by planning permission changes. As such the retention of a short term let planning permission can remain in place. It is also possible that future owners may wish to revert to short term let use and it will reduce the administrative burden on owners and local authorities in future if such changes are common.

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

Yes/No/Don't know.

Please give your reasons

NFCC do not agree that there should be permitted development rights in any circumstance involving short term lets as defined in Q3 (apart from reverting from C5 to C3). Therefore, limitations or conditions are not relevant.

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?

Yes/No/Don't know.

Please give your reasons

Understanding the location and number of short term lets in local authority areas will assist the authorities to assess risk and plan accordingly.

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

Yes/No

If so, please provide details here.

NFCC do not believe we are best placed to answer this question.

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

Yes/No /Don't know

Please give your reasons.

NFCC agree that some flexibility should be applied to allow short term lets for limited periods of time in certain circumstances. For example:

- Home sharing:

In these types of accommodation, the 'host' is letting only a few rooms within their own average sized primary house or flat while they are also still in residence, or only away for short periods of time - this is referred to as 'Home Sharing' in some countries including Scotland.

The Fire Safety Order will therefore have very limited relevance in these cases and the fire risks are comparable to general domestic residential use and therefore lower.

Q.12 If so, should this flexibility be for:

- 30 nights in a calendar year; or**
- 60 nights in a calendar year; or**
- 90 nights in a calendar year**

Please give your reasons.

90 nights provides greater flexibility to cover all circumstances in which the owners may be away from their main or sole residence and allowing it to be used for short term lets. For example: extended holidays or stays at second homes, business trips or secondments, caring for family and dependents during periods of illness.

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.

Please give your reasons.

NFCC prefer the simplicity of the C3 dwellinghouses use class to be amended so that this is a national application and more clearly understood. The limitation of 90 nights per year is not likely to result in a major impact on providers or housing availability or standards of safety etc.

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?

Yes/No/Don't know.

Please give your reasons.

If a 'new build' short term let planning application is being made it is assumed that it will be a proposed 'whole property' let as defined in Q3. In these cases they should be considered as an application for a business/commercial use rather than a dwellinghouse. If a higher level of application fee is applied to business/commercial use that should be applied.

The introduction of a new 'use class' will have the potential to create additional burdens on the relevant regulating authorities. It is not anticipated that the FRSs will have any capacity to

allocate front line inspecting or administrative resources to short term let holiday accommodation except for the highest risk properties in line with existing risk based inspection programmes.

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

Yes/ No/Don't know

Please give your reasons.

The implications of these permitted development rights to make improvements are minor.

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

Yes/No

If yes, please provide comments.

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/No/Don't know.

If so, please give your reasons.

This proposal, in part, is linked to the registration proposal and designed to ensure public safety. If such a scheme is introduced, it may become apparent that premises do not meet the needs of individuals with a protected characteristic, reducing the number of unsuitable premises available to these individuals. Conversely this would help ensure that remaining premises identified as short term lets are fit for purpose and meet safety and legislative standards.

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**
- b) local planning authorities**
- c) communities?**

Yes/No/Don't know.

Please give your reasons. It would be helpful if you could specify whether your comments relate to a) business, b) local planning authorities, or c) communities, or a combination.

In regards to (a) businesses, NFCC believe that there will be very limited negative impact on local businesses that will be balanced in tandem with the proposal to introduce a registration

scheme this 'use class' proposal will assist local regulators to identify and assess the risk associated with short term lets in their areas allowing them to plan inspection regimes accordingly.

Any further comment we may wish to add: -

As per our general comments above.

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NFCC anticipate that existing local authority planning and licensing teams will be responsible for the management of the planning and registration systems and any sampling or initial inspection arrangements for the higher risk properties if the 'proportionate' approach is adopted. In terms of additional costs these would be incurred in providing additional capacity and expertise within those local authority teams.

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