

GWYNEDD COUNCIL CABINET



Report to a meeting of Gwynedd Council Cabinet

Date of meeting: 23 July 2019
Cabinet Member: Councillor Gareth Wyn Griffith
Contact Officer: Gareth Jones, Senior Planning and Public Protection Service Manager
Contact Telephone Number: 34092
Title of Item: Holiday homes and planning

1. THE DECISION SOUGHT

1.1 That the Cabinet:

- i. Agrees that the Environment Department, on behalf of the Council, procures and commissions research work on holiday homes for Gwynedd but with a national context, with the support of the Royal Town Planning Institute (Wales) and other relevant organizations, to include consideration of the matters referred to in part 3 of this report.
- ii. Agrees that a budget of up to £80,000 from the Council's Transformation Fund, in consultation with the Head of Finance, is provided for this work.

2. THE REASON FOR THE NEED FOR A DECISION

2.1 Following a meeting in March 2019 between Cabinet Members and Senior Officers in relation to holiday homes, it was agreed that the matter needed to be revisited from two aspects, namely:

- i. matters surrounding the need for the owners of Holiday Homes to pay Council Tax so that we can charge a premium (the Chief Executive reported on this at the Rural Forum on 10 April 2019)
- ii. the way that we can restrict the number of houses that can be used for holiday purposes by looking at measures that are operational in other places, and how planning legislation could be changed for their implementation in Wales.

2.2 With regard to part 2.1 i), the work of trying to keep Holiday Homes within the Council Tax regime rather than the Business Rates regime is progressing. We have presented a report to the Rural Forum, which is a sub-group of the Local Government Association and includes 9 rural authorities, which have all agreed unanimously with the Council and have urged the Local Government Association to follow this matter up with the Government.

- 2.3 The Executive Board of the Association has also unanimously decided that there is a need to change the existing situation and is currently following this matter up with the Minister. We will wait to see the result of this.
- 2.4 This report attempts to address point 2.1 ii) above and part 3 of this report sets out the context and rationale behind the need for further research into this area of work.

3. INTRODUCTION AND RELEVANT CONSIDERATIONS

Background

- 3.1 There have been concerns for some time regarding the number of holiday homes in some areas in Gwynedd, with concern that the number is expanding to more areas. More recently, the tourism industry has evolved, with the arrival of the AirBnB business which is a global business. From the viewpoint of Gwynedd (and other locations), the number of holiday homes have substantially increased over the previous years, in areas where the highest number of holiday homes in Wales already exist. The high level conclusions of the Council's recent work, which reviewed the number of holiday accommodation, is definitive evidence of the increase (see Appendix 1). It is believed that the main concerns in terms of second homes / holiday homes / holiday accommodation include:
- i. The local supply of houses available to meet the need, as the use means a loss of local housing stock
 - ii. In light of the above, the impact on the local community, the Welsh language and the services in the community
 - iii. The potential impact on house prices
 - iv. The impact on the amenities of local residents
 - v. Safety standards for the properties
- 3.2 Currently, planning permission is not required to use a house as a second home / holiday let. Similarly, a licence is not required for the use with regard to ensuring that the property meets acceptable standards, etc. Therefore, the current situation is that there are no statutory regulations in place to manage the use, or any further increase in the numbers.

Is there control under any other relevant legislation?

- 3.3 Powers under Health and Safety legislation are relevant where there are reports of accidents in a holiday home / holiday accommodation. The Council is responsible for inspecting / enforcing in accommodation used for 20 weeks or longer per year, and the HSE is responsible for accommodation used for less than 20 weeks per year. It is noted that these are powers that are used reactively.
- 3.4 There are also powers under the trading standards legislation, involving the safety of products such as furniture / equipment, and reactive and proactive inspections are held for new businesses to this end.

What exactly do we mean by the term "holiday homes"?

- 3.5 For the purpose of this report, the term "holiday homes" means open market housing being used as holiday lets. This includes second home lets, and houses that are let as self-catering holiday lets, such as AirBnB. The use could be defined as a temporary residential use, rather than the use of an open market house as a main home.
- 3.6 Planning permission is not required to use an open market house as a holiday home as the current planning regulations (namely the Use Classes Order) do not differentiate between houses used occasionally by families on holiday, and houses used by families as the main home. It is noted that a recent appeal case in Cambridge has challenged this.
- 3.7 It is noted that developments for purpose built holiday accommodation, for example the conversion of former agricultural buildings, require planning permission. Therefore, such developments can be controlled through the current planning regulations and the relevant planning policies. Therefore, for the purpose of this report, the term "holiday homes" does not include purpose built holiday accommodation developments.

What national research work has been conducted?

- 3.8 Concerns about holiday homes and their impacts have been the subject of discussion for some time, where these concerns have historically focused on some specific areas, such as coastal areas and the National Parks in England and Wales.
- 3.9 There are probably many examples of research that has been carried out over the years. However, in terms of Wales, specific reference must be made to the Second and Holiday Homes and the Land Use Planning System Research Report, published by the Welsh Assembly Government in 2002. The conclusions of the research included 22 recommendations which included the two recommendations below:

Recommendation 6: Meeting and Managing Second and Holiday Home Demand.

We recommend that local authorities should encourage the development of new-build second and holiday homes in less sensitive areas. They might also consider allowing the conversion of derelict homes, unsuited to local needs, for this same purpose.

It is noted that the explanation for the above mentions - "It is not possible or desirable to prevent the entire demand for second homes and holiday homes as there is a tourism interest, and also as the demand derives from the individual's choice". Human rights matters were also mentioned, if there is an attempt to prevent all demand for second homes and holiday homes.

Recommendation 21: No Change to the Use Classes Order is Recommended

To require planning permission for change of use from a first home to a second home would result in fundamental problems in terms of definition and so of enforcement. For these reasons, we do not consider this to be a practical option.

In the explanation for the above, it is noted that it was (at the time) difficult to differentiate between primary use and secondary use. It would also be difficult to define the use, and would therefore be difficult to implement legally.

See the full research report in this link:

<https://gweddill.gov.wales/desh/research/planning/secondandholidayhomes/seconddomese.pdf?lang=en>

- 3.10 In 2008, a piece of research was published, the "Taylor Review: Living Working Countryside" on behalf of the Central Government, which looked at the challenges relevant to rural communities in England, which included a consideration of matters relating to holiday homes. The conclusions of the report included 48 recommendations that included the below recommendation with regard to holiday homes:

"Recommendation 21: The Government should consider the options of trialling planning rules limiting change of used of full time homes to part time occupation (as second homes or holiday lets), in one or more of the National Parks"

I do not believe that the above recommendation has been implemented.

Are there any examples of measures for managing the use?

London

- 3.11 The regulations in London since the 1970s have been different to the rest of England in relation to the management of the use of open market housing as holiday homes. The regulations in London used to prevent the use of residential properties in the 32 boroughs of London as temporary holiday lets. This was done through regulations that required planning permission to change the use, and the main purpose of this was to protect the housing stock in London.
- 3.12 As a result of the development of arrangements for sharing accommodation in light of businesses such as AirBnB, and changes to the ways people wished to use their homes, there was a call to slacken the regulations for short term holiday lets. Consequently, changes were introduced through the Deregulation Act 2015 (which reformed the previous legislation) that slackened the rules. This allowed short term holiday lets for a maximum of 90 nights in a calendar year, without the need for planning permission. It is therefore noted that home owners in London, who wish to have holiday lets for longer than 90 nights per year, need to obtain planning permission.
- 3.13 Since legislation came into force to slacken the rules, over a short period of time, there has been an enormous increase in the number of properties being let as short term holiday lets in London, with over 70,000 properties (including houses with rooms being let, and entire houses being let) listed as short term holiday lets. This has been the subject of a discussion at the House of Commons recently, with concerns regarding the impact on the housing stock and on communities etc., as well as the difficulties in enforcing the limit of 90 nights in a calendar year.

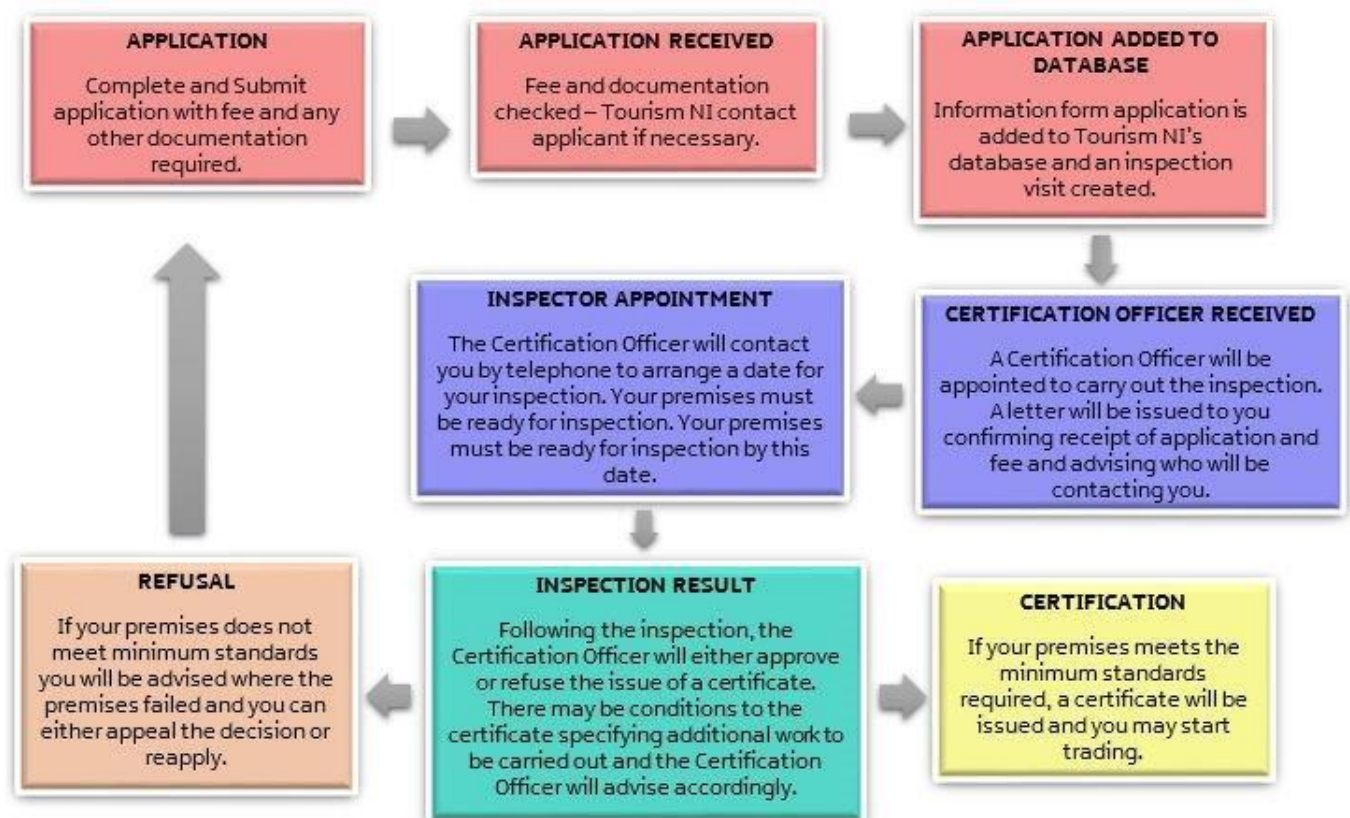
3.14 It currently appears that the Central Government (England) is not eager to introduce any change in legislation, as this could prevent households from letting their properties for short periods of time. Rather, they favour a non-statutory approach that supports good practice with regard to standards, etc.

Northern Ireland

3.15 Northern Ireland is currently the only country in the United Kingdom that regulates short term holiday accommodation providers. Regulations ("Tourism (Northern Ireland) Order 1992") mean that providers of all various categories of holiday accommodation must receive a certification from Tourism NI in order to be able to operate.

3.16 The procedure identifies eight various categories of holiday accommodation, including self-catering accommodation - which means letting a house for holiday purposes. There is a statutory requirement to make a formal request to Tourism NI (at the cost of £40 to £350) before a house can be used as a holiday let, and the process includes an inspection of the property to ensure that it complies with the requirements of the certification.

3.17 It appears that Tourism NI is a body equivalent to Visit Wales, but that operates and enforces the requirements of the Tourism Act with holiday property inspections looking at the standards of the properties and the methods of managing the holiday properties. It appears that the process does not consider whether there is an excess of holiday accommodation in a relevant area as part of the process of dealing with a certification application. The process is outlined below:



Scotland

- 3.18 Currently, the Planning (Scotland) Bill is in the process of going through Parliament in Scotland, which includes a proposal to reform the legislation so that the use of a house for short term holiday let requires planning permission where the Planning Authority designates an area as a short term holiday let management area. Currently, there is no definition of "short term holiday let".

Regulations in locations outside the United Kingdom

- 3.18 The huge growth in the custom of letting houses or rooms in houses as short term holiday lets, mainly triggered by the introduction of AirBnB, has become a global problem for cities beyond the United Kingdom. The common factor is the negative impact on communities that is caused by excess. Consequently, many countries have introduced new legislation to attempt to manage the situation.
- 3.19 The regulations introduced in **Barcelona** are considered the most effective regulations to manage short term holiday lets, and specifically the AirBnB business. In order to let a property as a short term holiday let, a tourist licence must be obtained. The licence is required for properties being let as short term holiday lets for tourists for consecutive periods of less than 31 days. There are various requirements to apply for a licence, which include:
- i. That the property meets appropriate standards / living conditions and that it is furnished
 - ii. It may only be used for tourism purposes, and the number of people staying in the property must be noted
 - iii. There must be contact numbers for the owner and the local emergency services
 - iv. An official complaint form must be in place
 - v. The property must be maintained appropriately
 - vi. Permission must be granted by the regional government, that determines the application for a licence before the property may be used as a short term holiday let
- 3.20 If permission for a licence is granted, the owner must register the property on-line with all relevant information. Through this, information about all licensed properties is on the city's register, which facilitates enforcement arrangements. The efforts and the resources put towards the enforcement of the legislation to disqualify / penalise owners who operate without a licence are highlighted. Also, the city refuses applications where there is already an excess, and has prohibited short term holiday lets in some areas of the city.
- 3.21 As well as managing the use, it is also noted that Barcelona has introduced the need to pay tax on the income generated from these businesses.
- 3.22 **Paris** is one of the most popular locations for AirBnB, and under legislation in France, formal permission was required for holiday lets of longer than 120 days in a year. Since March 2016, the law has changed which means that those who let properties must register this with the Council, and anyone who lets for longer than 120 days of the year must register the property as a commercial property, which is costly. Enforcement powers were also introduced as part of this.

- 3.23 Licensing arrangements have been operational in **Berlin** since 2016 in order to manage the use of AirBnB and, more recently, they have prevented any further increase due to the impact of the affordable housing stock in the city. Enforcement powers and substantial fines were introduced as part of the regulations.
- 3.24 In 2019, **Amsterdam** will be introducing regulations to restrict the period of time that properties may be let for holiday use, from 60 days down to 30 days per year.

What could be considered to manage the situation in Gwynedd / Wales?

- 3.25 It is believed that the statutory regulations that are in operation (or in the pipeline in Scotland) at the locations referred to above, not only highlight the scale of the problem, but also highlight the need to introduce changes in legislation to control the situation. It is not believed that a firm resolution to this could be gained through a voluntary plan, or through encouraging good practice as currently favoured by the Central Government in England.
- 3.26 Given the vast number of AirBnB accommodation in London and the difficulties surrounding the enforcement of a 90 night limit under the planning legislation and as there are no statutory requirements for registering, it appears that there is no current effective control in place. The resolutions in cities outside the UK appear to be based on:
- The statutory need for a licence / permission for letting (which is defined based on the number of days in a year the short term holiday accommodation is used)
 - Registration arrangements at area / national levels for the use
 - Restrict / prohibit short term holiday uses in some areas
 - Robust enforcement arrangements with major fines for breaching the rules
 - Resources for proactively enforcing the regulations
 - The need to pay taxes on income generated from the use
- 3.27 When considering a change in legislation, thought needs to be given to what exactly we are attempting to achieve. With regard to Wales, it is likely that two main matters need consideration:
- i. The impact of an excess of housing in the area being used as short term holiday accommodation on communities.
 - ii. The standards of the properties / houses being let as short term holiday lets in relation to matters relation to housing legislation.
- 3.28 Given both factors above, it is likely that the question needs to be asked as to whether both matters above can be addressed through changes to legislation in one or more fields of work. On the surface, it appears that matter 3.27 i, relating to an excess, would be a relevant matter to the planning field, and matter 3.27 ii, relating to the required standards, would be more relevant to the housing field.

- 3.29 It is believed that what is operational with HMOs could be considered, as an option that could be possible for gaining appropriate control over the use of houses for holiday purposes.
- 3.30 Due to the concerns that were commonplace for cities / towns with universities or colleges in Wales, regarding the number of HMOs, a piece of research work was commissioned by Welsh Government in 2015, which looked into every aspect of this. One of the recommendations in light of the research work included a definition of HMO, and creating a planning use class for HMOs. This is now part of planning legislation which gives firmer control of HMOs with regard to numbers.
- 3.31 This, of course, runs alongside the statutory arrangements that are in place for HMO licensing in accordance with the requirements of relevant housing legislation. The objective of licensing is to ensure that the landlords are fit and proper persons, and that the accommodation meets the required standards. As part of the statutory requirements, the Council must keep a register of all licensed properties.
- 3.32 Given what is operational in the field of HMOs with regard to planning and licensing, this could be an option for the management of the use of houses as short term holiday lets. This would involve the need to:
- i. Change planning legislation in order to create a new class use for holiday lets / holiday homes, and a definition of the meaning of holiday lets / holiday homes would be required (in addition to what is not included within the definition). It is possible to look at how other countries have defined this, and consider the outcome of the Planning (Scotland) Bill. This would involve introducing the need for planning permission to use the main home as a short term holiday let.
 - ii. Change relevant housing legislation in order to introduce statutory arrangements for holiday let licensing, which could include the need to keep a register of all licensed holiday lets. This would also require a definition of the meaning of holiday lets / holiday homes, which should be the same as the definition for planning purposes.
- 3.33 It is likely that it should be considered whether it is possible to introduce a change in legislation which could introduce a single procedure to meet the planning and licensing matters, so that the procedure is a complete process.

Matters to be considered

- 3.34 Relevant evidence would be required in order to justify a change in legislation and more detailed research work that looks at the local and national context could contribute towards this. In addition to the other matters that are referred to in this report, it is believed that research work needs to give consideration to matters such as:
- What is the current scale of the problem in Gwynedd / Wales and how has the situation changed over the past 10 years in relation to the number of houses that are used as short term holiday accommodation and their location?

- What is the real impact of this on communities and areas and the tourism industry?
- What is the economic benefit deriving from this, and does this outweigh any negative impacts on the communities or not?
- Given the above, is there a strong justification to introduce a change in legislation to manage the situation?
- How would a holiday home / short term holiday let be defined, and how practical would it be to implement and enforce the legislation?
- What would a change in legislation mean with regard to houses that are already used as temporary holiday accommodation?
- What impact could a change in legislation have on communities and the economy?
- Which resources would be required to implement any change in legislation? It is noted that the examples in cities such as Barcelona seem to be effective, due to the efforts and the resources that are put towards enforcing the legislation.

3.35 It is noted that the Royal Town Planning Institute (Wales) have agreed in principle to support the Council with further research work in this area and to provide a national context to this work. It is considered that this will be a substantial piece of work which will require input from a team of multi-disciplinary experts.

4. NEXT STEPS AND TIMETABLE

Prepare a brief in order to commission research work (August / September 2019)

Implement the relevant procurement requirement (the brief with set out a more detailed timetable)

5. ANY CONSULTATIONS UNDERTAKEN PRIOR TO RECOMMENDING THE DECISION

Consultation with relevant Departments in the Council

Consultation with other Councils / Authorities in Wales

Consultation with the Royal Town Planning Institute (Wales)

OPINION OF THE STATUTORY OFFICERS

Chief Finance Officer:

We know of course that there are local concerns about holiday homes / holiday lets and their impacts on communities in Gwynedd. Therefore, it is understandable why the Cabinet would wish to commission a substantial piece of research work on this matter, with the input of a multi-disciplinary team of experts. I understand that the work needed will become clearer with the preparation of relevant documents and the need for companies to invest time in proposing details such as price, programme and expertise for the work. Therefore, if there is a desire to commence this work early, I am willing to manage the arrangements for

the release of the appropriate sum, up to £80,000 for this purpose, from the Council's Transformation Fund, in consultation with the Environment Department and the relevant Cabinet Member.

There will be a number of deserving applications that will be competing for the scarce resource of the Transformation Fund, and it will be a matter for Members of the Cabinet to prioritise what makes a difference, when allocating resources from the fund. I can confirm that there are sufficient resources to fund this research work, and that additional money is available from the fund for projects (emanating from the Council's Plan etc) that will be reported to following Cabinet meetings for agreement.

Monitoring Officer:

Opportunities are highlighted to consider the role of current legislation and possibilities for developing new legislation, an aspect which this Service can assist with.

Appendices

Appendix 1: Summary of main findings of Gwynedd bed stock survey