



An Roinn Tithíochta, Pleanála
agus Rialtais Áitiúil
Department of Housing, Planning
and Local Government



To: Chief Executives, City and County Councils
CC: Directors of Planning Services, City and County Councils,
Senior Planners, City and County Councils,
An Bord Pleanála.

23 October 2017

**Circular letter PL 10/2017
APH 3/2017**

Guidance on Planning Applications for Short Term Lettings

Introduction

We have been asked by Mr. Eoghan Murphy, T.D., Minister for Housing, Planning and Local Government to provide guidance in relation to planning applications relating to short term lettings and changes of use and the relevant housing policy and specifically rental sector policy which should be considered in this regard.

Strategy for the Rental Sector – Working Group on Short Term Letting

The Department, under Action 18 of the Strategy for the Rental Sector, has established a Working Group consisting of all the major public stakeholders with interest in Short Term Letting. The Working Group will report to the Minister on the appropriate regulatory approach for short term lettings and the identification of any necessary amendments to legislation required giving effect to such regulation. It is expected that the Working Group will report by end 2017.

The proposals under consideration aim to facilitate the short-term letting of accommodation within permanent residences – homesharing – while protecting the existing stock of residential property in areas of high demand, safeguarding neighbourhood amenity and consumer protection and generating revenue to address negative externalities of short term letting.

Statement of the Policy Basis

Protection of residential rental stock in areas of high housing demand/need

The Strategy for the Rental Sector recognises the issue of potentially significant numbers of properties being withdrawn from the long term rental market for use for short term lettings and the negative impact this would have for the supply and availability of residential rental accommodation. The growing use of online platforms may, if not adequately regulated, facilitate and encourage this trend.

Short-term letting, where the dwelling involved is the permanent or long-term residence of a person or family does not reduce the number of residential units available in the economy. Homesharing, the letting of a room or rooms within a home, can be an important source of income, helping “homesharers” meet the costs of

mortgages, rents or other household expenses. This can support their tenure security. It also supports tourism and associated economic activity and even social and cultural exchange. Therefore, homesharing has many positive impacts and can generally be supported.

However a significant concern is that the ability to use online platforms may encourage:

- landlords, who normally provide residential rental accommodation to tenants, to seek to obtain higher returns by ceasing residential letting and moving to short term letting to tourist and business traveller customers;
- investors to purchase residential units for short term letting as an investment option.

Both of these scenarios involve residential properties being lost to the residential housing system, meaning that less long-term and secure accommodation will be available to the growing numbers of families and people who need it. The social and economic impacts of difficulties in accessing accommodation are significant and will not be compensated by other economic benefits of the shift of residential units into short term letting.

The Department is also concerned that the ability to use online short-term letting platforms might facilitate or promote the use of housing units, such as apartments, for short term letting purposes contrary to the provisions of the planning acts and create planning enforcement difficulties for planning authorities.

In the first instance, the purpose of this circular is to address these issues where an application is made for permission under the Planning and Development Act 2000 (the Act) for change of use for short term letting purposes. Of immediate concern are areas where there is high demand for long term residential rental properties and where there is a high risk of loss of supply due to short term lettings. These are likely to be areas where the lack of supply of permanent rental accommodation is evident in large numbers of people on social housing waiting lists, where there are difficulties in establishing Housing Assistance Payment (HAP) or Rental Accommodation Scheme (RAS) supported tenancies, where rents are high or where a rent pressure zone has been designated.

Amenity and nuisance issues - apartments and flats

In addition to loss of accommodation from the long-term rental market, there are further adverse impacts on local communities related to high concentrations of short term lettings in apartments. The transient nature of short term letting can have a disruptive effect on the daily lives and the cohesion of the owner occupier community in a multi-unit development.

Other issues

The increased prevalence of online short term letting platforms raises concerns in relation to other policy and regulatory issues including consumer protection, accommodation standards and safety for both users and the existing community. These issues are beyond the scope of this guidance, but will be examined by the working group on short lettings, established by the Department, in the course of its work.

The lack of visibility of short term letting is also a concern and constrains the ability to effectively monitor and regulate the activity. Measures to increase and institutionalise data collection and information generation will also be considered by the working group and may result in new or amended regulatory measures.

Relevant Planning Provisions

Under the planning code, all development, including a material change of use, requires planning permission unless exempted under the Act or the associated Regulations. However, there is a specific exemption in article 10(4) of the Planning and Development Regulations 2001 (the Regulations) for, within certain limitations or restrictions, development which consists of the use of a house for overnight guest accommodation, which, therefore, does not require planning permission. This exemption is typically or traditionally relied on in the context of the provision of B&B type accommodation. It is important to note that, for the purposes of article 10(4), “house” does not include a building designed for use or used as 2 or more dwellings or a flat, an apartment or other dwelling within such a building. In other words, apartments do not benefit from this exemption.

Section 5 Referral and An Bord Pleanála Decision

Where a question arises as to what, in any particular case, is or is not development or is or is not exempted development, section 5 of the Act provides that any person may request in writing from the relevant planning authority (or from An Bord Pleanála on referral) a declaration on that question.

In this regard, in Circular Letter PL12/2016 of 22 December 2016, the Department advised on a determination by An Bord Pleanála (ref RL3490) that, in a particular case, the exclusive use of a residential apartment for short term holiday lettings was a material change of use requiring planning permission. This was to ensure that planning authorities were aware of the grounds on which the Board reached its decision; the planning implications in terms of the requirement for such commercial use of residential units to be the subject of an application for planning permission; and the importance of a proactive approach to planning enforcement generally in this regard.

Guidance for Planning Applications related to Short Term Lettings

The immediate factors to be considered where planning permission is sought from a policy perspective are:

1. Urban centres where there is a high demand for residential rental accommodation
2. Whether a rent pressure zone has been designated for the local electoral area
3. High numbers of persons on the local authority waiting list for social housing in the area
4. Difficulties in establishing HAP or RAS tenancies
5. Concentration of short term letting properties within a particular area or a particular multi-unit development

Guidance for specific types of planning application

In considering planning applications for short term lettings, the nature and character of the location, whether a city or town centre or primarily a residential area, should be considered. In respect of the former, the need to balance the competing demands of the city or town centre should be acknowledged, including the need to provide additional tourism accommodation as part of the promotion of tourism, a key economic driver. Consideration should also be given to the quality of residential amenity provided by the existing accommodation, particularly as provided by older apartment schemes, and whether it is better suited for short term lettings.

In addition, other key principles that should inform these considerations include the importance of making the most efficient use of existing housing stock and in way that will not disrupt the residential amenity of established communities.

1. Individual applying for a change of use for short term letting in an existing single apartment:

A grant of permission may be appropriate in an apartment where the following conditions are met:

- Applicant is the owner or occupant of the apartment in question;
- Apartment has a permanent resident;
- Confirmation of consent of management company;
- Short term letting does not exceed 60 nights in any one year and not more than 5 consecutive nights in any specific letting;
- Not more than 2 rooms per apartment to be occupied per night and not more than 4 guests; and
- Not more than 20% of the apartments accessible on any floor from any access stairwell/lift core to be approved for short term letting, on a first come first served basis, as is the norm for other locally contentious uses building up in an area.

2. Individual applying in relation to a non-exempt house*

Material factors to be considered in deciding on an application in these circumstances include:

- Where there is a high housing demand / need in the area;
- The applicant is the owner or occupant of the house in question;
- The house has a permanent resident;
- Locational context and potential for nuisance where close proximity to other permanent accommodation; and
- Is there a proliferation of short term lettings in the area, both in urban or rural housing i.e. attractive rural tourist areas may be dominated by short term lettings resulting in reduced accommodation available for locals and increased pressure for more houses.

* With reference to the provisions of article 10(4) of the Regulations, mentioned above.

3. Change of use to short term lettings of entire or part of an existing apartment building

Where an apartment building is in a rent pressure zone it may not be appropriate for planning permission to be granted for the period of the application of that designation. In other circumstances planning permission may be appropriate subject to confirmation of consent of the Management Company.

Note on Points 1-3: The above considerations are not an exhaustive list of the various planning considerations which will form part of the overall assessment. There may be other local and site specific considerations that also apply which in turn may result in the determination to refuse planning permission even though the application may generally be in compliance with the above guidance, which has a particular focus on the impacts/potential impacts of short term letting on the residential rental stock in the local area.

Planning Enforcement

Circular Letter PL12/2016, referred to above, reminded planning authorities of the importance of taking a proactive approach to planning enforcement generally in relation to ensuring that short term letting activity is in compliance with the planning code, with a particular focus on properties that may be exclusively used for short-term letting purposes. It advised that planning authorities should:

- a) investigate the matter by checking commercial website platforms and other media that such short-term lettings are advertised and procured through;
- b) where they form the view that a property, or properties in an apartment building, may be in use for short-term letting purposes on an on-going basis, they should write to the property owner(s) or letting management company concerned requesting them to confirm within a specified timeframe whether or

- not the property is being continually made available for short-term letting purposes, while simultaneously advising them of the requirement to apply for planning permission for change of use from residential to commercial use where the property is being exclusively used for such short-term letting purposes; and
- c) where necessary, initiate the planning enforcement procedures under Part VIII of the Act and as further specified in the Planning and Development (Planning Enforcement) General Policy Directive 2013.

Planning authorities should focus their enforcement activities in high risk areas, such as those designated as rent pressure zones.

Raising awareness with Management Companies

With reference to point b) above, and with a view to taking a proactive approach to enforcement activity, it is recommended that individual planning authorities contact the Property Services Regulatory Authority¹ (PSRA) in relation to the potential for unauthorised short term lettings in their administrative area.

This contact would be for the purpose of creating awareness of the requirements under the planning code in regard to short term lettings by the PSRA and then the PSRA subsequently alerting their registered operators in this regard. This information could also include practical information such as contact details for the Enforcement Section of the planning authority and the planning enforcement procedures available if a potential breach of the planning code is encountered.

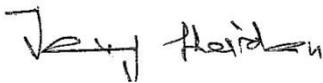
Enforcement Statistics

Under cover of a separate Circular Letter the Department will be requesting information from planning authorities in relation to complaints and enforcement activity generally in the period from January 2017 on the matter of short term letting activity and compliance with the planning code and where non-compliance is being investigated or enforcement action is being pursued. This information will be sought on a periodic basis going forward.

On-Going Monitoring

It is intended that the Working Group, established by the Department, will continue to monitor the broader policy and regulatory issues relating to the impact of increased activity in short term related letting on the rental sector.

Yours sincerely,



Terry Sheridan
Principal
Planning Policy



Earnan O'Clérigh
Principal
Rental Market & AHB Regulation

¹ The Property Services Regulatory Authority maintains a register of property management companies, which can be accessed at <http://www.psr.ie/website/npsra/npsraweb.nsf/page/publicregister-reg-of-propserv-prov-en>.