

 <p>COTSWOLD DISTRICT COUNCIL</p>	<p>COTSWOLD DISTRICT COUNCIL</p>
<p>Name and date of Committee</p>	<p>COUNCIL - 14 JULY 2021</p>
<p>Report Number</p>	<p>AGENDA ITEM 11</p>
<p>Subject</p>	<p>REPORT OF THE WORKING GROUP INVESTIGATING SHORT TERM LETS (STL)</p>
<p>Wards affected</p>	<p>ALL</p>
<p>Accountable member</p>	<p>Cllrs Tony Berry and Clive Webster Joint Chairs of the Short Term Let Working Group</p>
<p>Accountable officer</p>	<p>Phil Shaw Business Manager Development Management Tel: 01993 861687 Email: phil.shaw@publicagroup.uk</p>
<p>Summary/Purpose</p>	<p>Members will recall that on 18 November 2020 they agreed to set up a cross party working group (“the Group”) to look at the impact of properties let for short periods and in particular the implications for neighbours. The requirement was that they report back to Council in June 2021. The group has met roughly monthly since it was initiated, has called a number of witnesses and has created an evidence base which has helped to define the key issues and clarify those areas where the Council can act, those that lie beyond its direct control, identified where further work is required and is reporting upon a number of associated issues that may warrant further investigation. This report sets out the key findings.</p>
<p>Annexes</p>	<p>Annex A Draft enforcement protocol Annex B Summary of recommendations</p>
<p>Recommendation/s</p>	<p>a) <i>That Council authorises Cllr Berry to send a letter to the local MP seeking his support regarding the changes to the legal position as outlined in this report</i></p> <p>b) <i>That the Council consider the issues summarised at Annex B to agree whether further action should be taken</i></p> <p>c) <i>Taking account of any further actions required as a result of recommendation b) that the Chief Executive be asked to oversee the preparation of a report back to Council with an Action Plan detailing how and when such actions will be progressed</i></p>
<p>Corporate priorities</p>	<p>Ensure that all services delivered by the Council are delivered to the highest standard</p> <p>Help residents, businesses and communities to access the support they need to ensure a high level of health and well-being</p>

Key Decision	No
Exempt	No
Consultees/ Consultation	Members of the Working Group have undertaken informal consultation with their local Parishes to sense- check findings as they emerged.

I. BACKGROUND

Following some complaints regarding the use of larger properties being let to parties of people who created disturbance to neighbouring properties (and in one case the withdrawal of an offer to buy), a cross party motion to investigate this as an issue within the Cotswolds was agreed at the November 2020 Council Meeting and a working party set up with a goal to report back to Council. The original motion and resolution from November read :

Motion 4 of 2020/21 – Short Term Lets

Proposed by Councillor Tony Berry, Seconded by Councillor Clive Webster.

“Council notes that properties being let to large groups of people on a short-term holiday let basis, particularly when situated in villages, can cause nuisance and have a negative impact on neighbouring properties.”

Councillor Berry thanked Councillor Webster for the work that had been carried out on bringing this motion to Council.

Councillor Berry explained that where large houses are being let by agencies, that are outside the rules in terms of the normal letting cycle. Housing for over seven people, let out short term, should be classed as a ‘house in multiple occupation’, and should have had business approval, in relation to business rates as opposed to Council Tax, it should be a business transaction. A cross party working group was proposed to gather more evidence.

Councillor Webster seconded this motion and thanked Councillor Berry for raising this. He reiterated that it was a nuisance across the district when large houses were let out, possibly for parties, and a noise nuisance log had to be built up over three weeks, which is unhelpful when people are visiting for a short amount of time. It would be useful to see how other Councils were tackling this problem and what other options were available for the Council.

Concern was expressed that it was not just one well-known agency that rents out large houses for a short period, other agencies in the District also do this. There was a balance to be struck, with flexible options brought back to Council.

RESOLVED:

- (a) that a working group is established to explore options seeking to ensure that the impact on the locality is no worse than that which would apply to a domestic dwelling;**
- (b) that the working group reports its findings back to Council by June 2021.**

The group comprised Cllrs Tony Berry and Clive Webster as Joint Chairs along with Cllrs Gina Blomefield, Nikki Ind, Dilys Neill and Lia Spivey and was supported by Phil Measures (Service Leader ERS), Marie Barnes (Legal Executive) James Brain (Planning Policy Manager) Chris Jackson (Shared Tourism Services Manager) and Phil Shaw (Business Manager DM).

Whilst the Group, as a result of the terms of reference, were focussed on the “issues” created and the options available through Council administered services to resolve them, it should also be made clear that the benefits of a strong tourism business in the Cotswolds were fully recognised; the Group had no intention of challenging this, but rather were seeking to address those specific instances of the behaviour of visitors that are not in keeping with what makes this area so attractive to live in or visit.

2. ISSUES OF CONCERN WITH THE OPERATION OF STL

2.1. During the course of its investigations the group looked at anecdotal and other evidence as to what were the concerns that had led to the formation of the group. This ranged from investigating the controls levied by operators of such premises by undertaking mystery shopper style searches to looking at who else had undertaken research into the issues surrounding STL. Officers were also asked to prepare specific topic papers for discussion. This has all been collated and is stored on a shared drive for future reference. It was considered that in mapping these it would assist in formulating a response and also act as a record and a resource for others who may need to consider policy and enforcement actions in the future.

2.2. The group batched the concerns under the following headings:

NOISE:

- People eating, drinking and playing music late into the evening.
- Amenities such as hot-tubs, BBQ's, gazebos etc being used late at night.
- Fireworks, which together with Chinese lanterns, bring in another set of issues.
- Disturbance during changeover period of servicing the property

PARKING:

- insufficient parking at the house and guests are invited to park outside the premises
- Parking often on narrow village lanes which are used by the residents.
- Use of resident parking
- Off-site parking away from the property
- Danger of access to parking
- Not allowing enough room for farm machinery or emergency vehicles to pass.

RUBBISH:

- Guests rarely know about rubbish collection dates and recycling, leaving refuse by the bins and making a mess (aided and abetted by the local wildlife!).
- Bins left in street long before/after collection dates

In terms of the District Council's powers the group identified four themes that were potentially inhibiting effective control over the above issues

- lack of clarity as to how to PREVENT issues arising in the first place
- lack of clarity as to the extent of the problem and the best means to MANAGE, enforce and control issues as were arising
- Potential inconsistent application of ENFORCEMENT powers
- Existing powers did not fully address the problems and so LEGISLATIVE CHANGE was required

3. LEGAL POSITION

- 3.1. The legal position is complex and covers areas including, (private) Land law and Civil nuisance, Environmental and Planning law, and, to a lesser extent, Human Rights. It is clear that there is no single position or regulation in law that can be relied on to regulate the areas of concern. The following sections of the report refer to those laws within the Council's powers.
- 3.2. Parliament and the Scottish Government have however looked into the issues surrounding the operation of STL and the Group has added the findings of those bodies to its archive. Additionally as a result of enforcement action being taken by Councils' a body of case law is emerging that is helping to define when they do and do not come under control. The Scottish Government is considering:
1. Licensing for short term lettings.
 2. Giving LA's the ability to designate control areas.
 3. Undertaking a review of the tax treatment for short-term letting.
- 3.3. Ideally something along the lines of the Scottish proposal would give LA's the ability to control this problem where such control is currently lacking, for which primary legislation would be required.
- 3.4. A key finding of the group is thus that the Council seek to elicit the support of the local MP in supporting changes to primary legislation to look at introduction of legislation based upon the Scottish Model

4. MAIN EXISTING CONTROLS

4.1.1. Planning

The planning position is complex. There is a wide spectrum between those STL that clearly do not come under planning control (occasional use of a family house let out for short periods) and those that clearly do (large properties or where the frequency of use and impact in context mean that emerging case law enables that planning enforcement action might be considered expedient) Each case needs to be looked at on its merits.

However, in the course of investigating the planning policy position where STL do come under control, it has been agreed that the existing policies in the Local Plan could be clearer and that the lower case text that sits under these policies could help to identify the likely issues that would need to be addressed. The Planning Policy Manager has agreed to pick this work up as part of the review of the Local Plan along with looking at creation of a data base of the number of such properties such that the implications of housing coming out of conventional use and into STL for housing need, affordability etc can also be factored into Planning Policy making.

4.1.2. Environmental Health

Similarly there are a range of powers potentially available to address noise and other impacts that come under Environmental Health legislation. Again, however it is not always straight forward to administer these controls because of the potential difficulty of reporting it when the office is closed, the fact it may be "one bad occupier" as opposed to the owner who is the cause of the concern, it may be difficult to persuade a court as to the expediency of action unless there is an ongoing and repeated breach of legislation.

Sweeping up the points regarding difficulties in raising complaints, monitoring the extent of complaints, ensuring that the range of powers that are available are considered when complaints are received the group considered that further training and advice to staff was required along with a communications strategy looking at helping residents to raise complaints and operators to avoid problems arising through good management.

4.1.3. The Operators

As the work developed it was hoped that the introduction of a code of conduct may be a possible means whereby good behaviour could be encouraged both for those letting the property but also for those occupying it. However, much of the sector lies outside the control of the formal tourism sector and it was not clear that imposing further requirements on that part of the sector that are already using accreditation etc would address the issue of how to get the unregulated sector to engage with the need to minimise harmful impacts.

4.1.4. Recommendations

A key finding of the group arising from the above is thus that the Group recommends that the Local Plan Review Board looks into the planning policy that applies when STL do come under planning control as the LP is reviewed as part of the Local Plan process; that this review is informed by a database of how many of these units are operating in the District (which may also have implications for affordability, housing need etc) and with the aim of addressing the noise, parking and rubbish issues identified above.

4.1.5. The scripts for Customer Services should also be refreshed to help guide complainants towards the most appropriate contact; the recording of such complaints should be batched together such that the size of the problem can be better identified and that the Business Manager Development Management and the Service Manager for Environmental Health should create a document (based on Annex A) that identifies the likely key issues and the potential enforcement solutions so that the full range of enforcement options is available to staff dealing with the complaint. This document should form the basis of a training programme for relevant Planning, Environmental Health and Customer Services Staff and furthermore should also form part of a Comms and engagement strategy looking at helping residents to raise complaints but also helping operators to avoid problems arising

4.1.6. A further key finding of the group was that the Shared Tourism Services Manager should be asked to pass on the key issues to the regulated sector to ensure that they were addressed in their accreditation schemes but additionally that a bespoke Comms operation was needed to help identify the benefits to operators, residents and occupiers of operating in a responsible manner

5. OTHER MATTERS RAISED

During the course of its investigations, the Group came upon matters that it considered may have financial or other impacts upon the Council but which it felt lay beyond the term of reference of the Group and as such which it was agreed would be reported to Council to ascertain whether it considered further investigation should be undertaken.

These matters were:

- Whether some properties were being claimed as STL but were really second homes and advantage was being taken of the fact they were classed as a business and not a property for council tax purposes?
- Whether the Council was supplying domestic waste containers to what were effectively businesses and the cost implication of this?
- Whether properties were insured for business purposes and met any necessary fire regulations as may apply to businesses as opposed to houses?

6. FINANCIAL IMPLICATIONS

6.1. None arising directly from the working of the group

7. LEGAL IMPLICATIONS

7.1. Other than those referred to in this Report there are no further legal implications which may arise directly.

8. RISK ASSESSMENT

Not applicable.

9. EQUALITIES IMPACT (IF REQUIRED)

Not applicable.

10. CLIMATE CHANGE IMPLICATIONS (IF REQUIRED)

10.1. None.

11. ALTERNATIVE OPTIONS

None.

12. BACKGROUND PAPERS

The terms of reference, key findings, agenda and minutes of the Working Group have been archived in a Google Doc library for future reference as required.