

To: Cabinet
Date: 14 September 2022
Report of: Executive Director (Communities and People)
Title of Report: The Regulation of Short Let Accommodation

Summary and recommendations	
Purpose of report:	To seek approval for the cessation of domestic waste collections at premises which are registered as self-catering and holiday let accommodation for business rates
Key decision:	Yes
Cabinet Members:	Councillor Linda Smith, Cabinet Member for Housing Councillor Nigel Chapman, Cabinet Member for Citizen Focused Services
Corporate Priority:	Deliver more affordable housing, Support Thriving Communities
Policy Framework:	Council Strategy 2020 - 2024

Recommendations: That Cabinet resolves to:
<ol style="list-style-type: none">1. Cease providing a domestic waste collection service at premises which are registered as self-catering and holiday let accommodation for business rates; and2. Continue to use business rate data to prioritise investigations by the Planning Enforcement service into the unauthorised change of use from residential accommodation to self-catering and holiday let accommodation.

Appendices	
Appendix 1	Risk Register
Appendix 2	Equalities Impact Assessment

Introduction and background

1. The scale and nature of England's guest accommodation offer has changed significantly over the last 10 to 15 years, driven primarily by the growth of online platforms. This has led to a significant number of new entrants into the market,

particularly owners of what would otherwise be residential premises offering short-term and holiday lets.

2. There have been variable impacts with some local authorities experiencing significant changes whilst others have only been marginally affected. Oxford, which is already facing a housing and affordability crisis has seen a significant number of properties that might otherwise have been used to house individuals or families lost to the short let market. While numbers reduced sharply during the COVID pandemic period down to 1,275, they are on the increase again and in the second quarter of 2022 there was a 41% increase to 1,801.
3. Identifying short let properties isn't straightforward as there is currently no legal requirement that they are registered as such. There are numerous short let and holiday let platforms used by people renting out part of, or all of, a property. While probably the most popular, it should be noted that AirBnB is only one such platform and there are others such as Vrbo and Booking.com and the proposals being put forward in this paper concern the short let properties themselves and their owners, irrespective of which platform the owners use to market them.

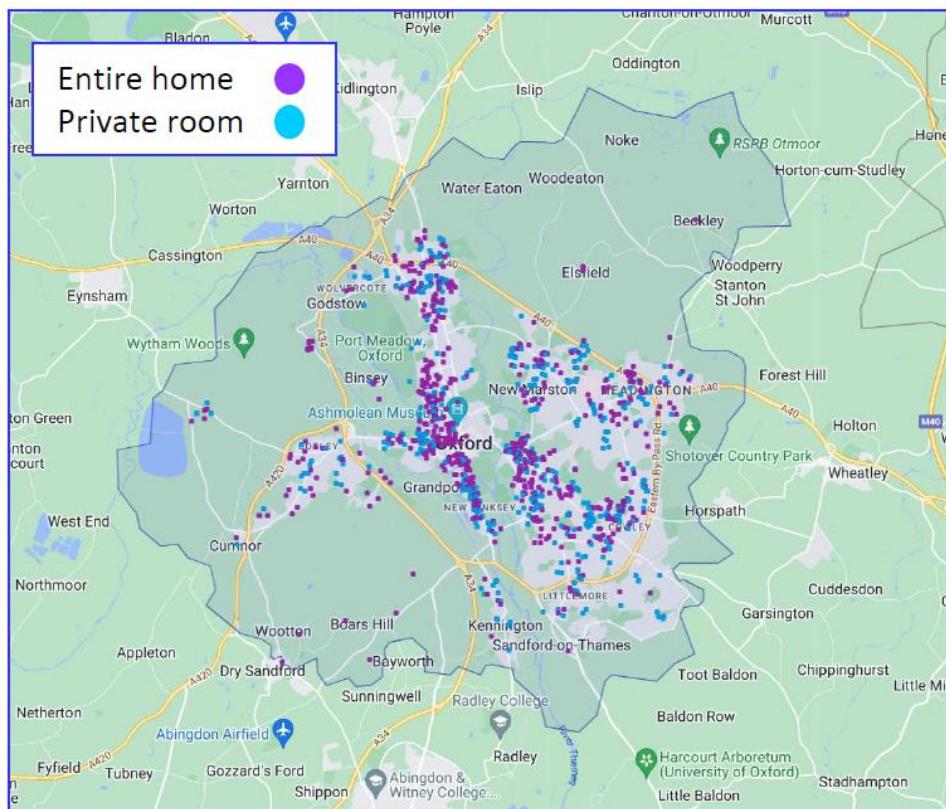
Short lets in Oxford

4. The South East region has the third highest number of short lets registered on AirBnB and of the 15 largest cities in the South East, Oxford has the second highest number of short let properties behind Brighton and Hove. Oxford is fourth in terms of the proportion of whole home short term lets as a percentage of our total households, with the Census 2021 data indicating that 1.4% (781) of households in the City are involved in short lets.

City/Town	County	Entire home	% Entire home	Private Room / shared room	% Room	Total	As a % of HHs 2021	Occupied HHs 2021	Population 2021
Brighton and Hove	East Sussex	2298	74%	809	26%	3107	1.9%	121,400	277,200
Oxford	Oxfordshire	781	53%	686	47%	1467	1.4%	55,200	162,100
Southampton	Hampshire	560	57%	416	43%	976	0.5%	102,300	249,000
Margate*	Kent	744	83%	149	17%	893	2.5%	29,883	72,089
Milton Keynes	Buckinghamshire	506	67%	254	33%	760	0.4%	113,100	287,000
Portsmouth	Hampshire	414	60%	280	40%	694	0.5%	86,200	208,100
Reading	Berkshire	434	73%	162	27%	596	0.6%	67,700	174,200
Eastbourne	East Sussex	373	72%	145	28%	518	0.8%	45,600	101,700
Slough	Berkshire	308	70%	132	30%	440	0.6%	52,400	158,500
Broadstairs & St Peters*	Kent	339	85%	62	15%	401	3.1%	10,900	25,711
Maidstone	Kent	326	84%	63	16%	389	0.5%	71,200	175,800
Worthing (Part of B&H)	West Sussex	260	75%	88	25%	348	0.5%	49,500	111,400
High Wycombe*	Buckinghamshire	180	66%	93	34%	273	0.1%	131,321	326,648
Basingstoke	Hampshire	158	64%	87	36%	245	0.2%	76,600	185,200
Crawley	West Sussex	72	50%	71	50%	143	0.2%	45,500	118,500

Source: AirDNA, 2022

5. A search on AirBnB in Oxford shows that there are over 1000 available properties in the city and its surroundings. These listings range from rooms to entire properties capable of hosting over 5 guests. The AirDNA website shows that there are 1,470 active rentals in the city. Of this figure, 53% (781) are entire properties while the other 47% (689) are rooms in shared houses. Airbnb makes up 80% of the listings and Vrbo 20%. The great majority of these properties can be found across central wards in the city such as Carfax and Jericho, Hinksey Park, Holywell, St Clement's and St Mary's. Other wards with active listings are Cowley, Cutteslowe and Sunnymead, Headington, and Marston.



Source: AirDNA 2022

6. In terms of property type, the platform indicates that 1-bed properties are the most popular and make up 37% of the total rental size, followed by 2-bed properties with 27%. 3-bed properties make up for 16%, Studios or rooms 11% and 4-bed or more 8%. Furthermore, there is a high travel demand in Oxford where short-term rentals are booked an average of 75 times a year.
7. The available growth figures show that during the third quarter of 2019, active rentals reached a peak of 2,133 listings. However, by the second quarter of 2020, the number of short let properties decreased by 34% with 1,417 active rentals, which can be attributed to COVID restrictions. By the fourth quarter of 2021, the active rental short-lets registered its lowest point since 2019 with 1,275 active rentals. Since then, the market has experienced a steady recovery with the last record in the second quarter of 2022 showing 1,801, a 41% increase. Please note that these figures show entire properties as well as rooms.

The impacts of short lets

8. While the sharing economy brings many benefits to the tourism sector, the rise in short-term and holiday letting has also prompted a range of concerns. These include the impact on the housing market and questions around health and safety standards, particularly when compared to the well-regulated hotel and guest house sectors. The impacts also vary depending on the nature of the area affected. Some local authorities such as Brighton, Liverpool and Newcastle report problems with “party houses” where repeated large scale events, often connected with stag or hen parties, generate ASB from noise and waste.
9. Government policies have put pressure on buy-to-let landlords, with the withdrawal of mortgage tax relief, higher stamp duty for additional properties, a ban on letting

agent fees and the impending removal of section 21 all making longer term lets less attractive. A study of 1,000 landlords for the Association of Residential Letting Agents found that 16% of landlords only offered short-term lets and 7% offered both short- and long-term lets. Of this 23% of landlords, 12% had changed long-term lets to short-term lets and 30% had added properties to their portfolio as short lets.

10. In Oxford, the impact on the local housing market from the loss of long term lets is the greatest concern and outweighs the ASB issues that are nonetheless regularly reported regarding short lets. There were already concerns about the loss of long term private-rented stock to the short let market before the pandemic given the levels of demand for homes in the city and the size of the waiting list for council housing. During the pandemic, short lets also contributed to the increase of empty homes in an area with critical housing needs.

Steps taken so far

11. The Council has been an active and vociferous campaigner for government intervention and an increase in local authority powers due to there currently being very few enforcement tools the Council can use to regulate or control short lets. London is currently the only city in England which requires homeowners to apply for planning permission to use residential premises for short-term accommodation for more than 90 nights in a calendar year. This is a local power that is not available elsewhere in England. The government has now recognised this lack of control as an issue and in July announced a review into short-term tourist accommodation, with a call for evidence to which the council will be responding by the deadline of 21st September.
12. Planning enforcement action against short lets has been prioritised and a number of successful cases have been taken, although each investigation requires a detailed case by case approach. Formal action is a drawn out process and to date several of the cases where enforcement action has commenced has resulted in applications for retrospective planning permission. Additionally, of all the enforcement notices that the council has served in relation to short letting of properties, 100% of these notices have been appealed to the Planning Inspectorate. To date the council has had a 100% success rate in defending those appeals against the enforcement notices.
13. Under business rates legislation a property that is available to let for short periods that total 140 days or more per year should be rated as self-catering and holiday let accommodation and valued for Business Rates. The property will no longer be liable for Council Tax and will pay Business Rates instead. It has been identified that there are 104 properties in Oxford that have registered as self-catering and holiday let accommodation and been valued for Business Rates. This data has been used to successfully target planning enforcement action and investigations are continuing into those premises registered as businesses. The success of the enforcement action taken so far by the Planning Enforcement service indicates that using this Business Rates data to prioritise investigations should continue. It has also brought into focus the question of household waste collections for the 104 properties registered as businesses.

Waste Management

14. A number of local authorities including Scarborough, Isle of Wight, Dorset and Hampshire have changed their approach to collecting waste from self-catering and

holiday let accommodation registered as businesses and it is proposed that this approach is adopted in Oxford.

15. Under the Environmental Protection Act 1990, all businesses (including those operating from home), have a legal responsibility to safely contain and dispose of any waste produced because of their business. This legal responsibility extends to self-catering and holiday let properties which are classified as commercial waste producers under the Controlled Waste (England & Wales) Regulations 2012.
16. Self-catering and holiday let properties that are valued as businesses should therefore pay for a commercial waste service, including collection and disposal charges. However, this would only apply when the owner is not resident, as the Council has a duty to provide a household collection for the period a property is used as a domestic residence.
17. Property owners have a duty of care to ensure waste is correctly stored and legally disposed of. Section 34 of the Environmental Protection Act 1990 requires that waste should be safely secured in such a way to ensure that it does not cause litter or attract vermin, ideally in waste receptacles.
18. The Community Response Team are authorised under the Environmental Protection Act 1990 to check if businesses are complying with their duty of care. This means an officer can visit the premises or write to the owner to ask to see waste transfer notes. Failure to provide the documentation could result in enforcement action being taken.

Options appraisal

19. Two options were considered with regards to dealing with the collection of waste from self-catering and holiday let properties that are registered for Business Rates and defined as commercial waste producers under the Environmental Protection Act 1990:
 - Option 1: Do nothing and continue as now.
 - Option 2: Properties that are registered for business rates are required to sign up for a commercial waste collection service.

Option 1 – Do nothing

20. Under this option, the self-catering and holiday let properties registered as businesses would still be able to use the domestic waste collection service, even though they are commercial waste producers.
21. The implication of this is that there are up to 104 businesses benefiting from a free waste collection service which is subsidised by the council tax payer and this approach would continue to legitimise their misuse of the recycling and waste collection service provided by Oxford Direct Services (ODS) for Oxford City Council. By not addressing this mismanagement of waste it sets an example that could lead to encouraging others to adopt similar behaviours with regards to their waste.

Option 2 – Require properties registered for business rates to sign up for a commercial waste service

22. The owners of properties registered as self-catering and holiday let accommodation for business rates would be contacted and advised that they are required to

arrange for a commercial waste collection service if they have not already done so. These properties could sign-up with ODS or use an alternative waste provider for their commercial waste collection agreements.

23. Oxford City Council as a waste collection authority could offer these collections on the same frequency and quantity as all domestic dwellings through its current arrangement with ODS.
24. The collection would be delivered by ODS. Oxford City Council would then have to recover the cost of collection and the disposal from the waste producer. The cost of disposal would need to be reimbursed back to Oxfordshire County Council as the waste authority, and ODS.
25. Oxfordshire County Council has agreed that this waste could be collected and disposed of through their contract as household-like waste; however this agreement would need formalising to include the quantity and financial reimbursed arrangements.
26. Annual commercial waste transfer notes would need to be produced and managed by ODS for each property.
27. This approach would involve a fee to be paid to ODS by each property registered as a business for the purpose of providing self-catering and holiday let accommodation. The charge would cover the collection, disposal and duty of care documentation. It would need to be reviewed annually to account for changes in disposal fees. The process between the Council, ODS and the County council would need documenting to ensure compliance.

Recommendations

28. Option 2 is the recommended approach. The proposed timetable for implementation is:

Activity	Dates
Communication of change to existing short let property owners registered as businesses	15 September – 15 October
Commercial waste contracts agreed with ODS. If the owner chooses an alternative service provider the removal of domestic waste containers from short let properties registered as businesses would take place.	15 October – 15 December
Enforcement of waste collection regulations	1 January 2023 onwards

29. It is also recommended that the Council continues to use Business Rates data to prioritise planning enforcement where an unauthorised change of use has resulted in the loss of residential accommodation to self-catering and holiday let accommodation.

Financial implications

30. Based on the current data known, the proposal would not create any saving for the domestic Recycling and Waste Service as the dwellings are located across the city and amongst current service areas. There is also a potential business opportunity to grow commercial waste collections in this sector.
31. There is a risk regarding the potential loss of Council Tax if more short let properties register as self-catering and holiday let accommodation businesses despite the deterrents the Council is putting in place.

Legal issues

32. If a residential property becomes rated as a self-catering property and valued for business rates, it is considered that there may, depending on the facts of the case, be a material change of use from a C3 residential dwelling to a *sui generis* holiday let business that would, in that case, require planning permission. Policy V5 of the Local Plan permits new short let sites in the city centre and on Oxford's main arterial roads, but Policy H5 states that planning permission will not be granted for any development that results in the net loss of one or more self-contained dwellings on a site, including family homes. If a premises is registered as a business providing self-catering and holiday let accommodation and did not obtain any necessary planning permission, planning enforcement action could be taken.
33. The powers to enforce waste legislation are already in place and carried out by the Community Response Team.

Level of risk

34. The Risk Register is attached as Appendix 1.

Equalities impact

35. The Equalities Impact Assessment is attached as appendix 2. A full Equalities Impact Assessment is not necessary as this change does not impact on any protected characteristics.

Carbon and Environmental Considerations

36. It is anticipated that the change in waste collection arrangements will result in additional vehicle movements as ODS or other commercial waste operators set up separate commercial waste collection services to short lets. There is also the potential for waste generated at the properties to no longer be separated as efficiently into recyclables.

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Background Papers: None

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