

**HOLIDAY LETS
DETAILS OF SERVICE SPECIFIC CRITERIA**

PLANNING

The use of a residential property for commercial holiday letting purposes does not automatically represent a change of use of the property and therefore a breach of planning control.

For planning purposes, a dwelling does not need to be a person's sole or main residence and a property does not have to be a home.

The use of dwellings for holiday lettings in a way which meets the planning definition of a 'C3' residential dwelling would not result in the change of use of the property. This definition includes occupancy by a single person or family and groups of up to six people living as a single household. The occupancy of properties by larger groups may constitute a material change of use of a dwelling depending on how it is used.

There is no legal definition of what constitutes a material change of use in planning terms. The courts have established that this is a matter of fact and degree and it will depend on the circumstances of individual cases. Planning control over the use of dwellings for commercial holiday letting or to identify properties used for holiday letting is therefore limited as it currently stands.

Where planning controls do exist is when planning permission is only granted for the use of the building to be for tourist accommodation, usually part private and part commercial (based on the Valuation Office's definition for commercial holiday lets). This is common in conversion schemes in the smaller villages and the open countryside where a general residential 'C3' use would not normally be supported in principle.

REVENUES – COUNCIL TAX AND BUSINESS RATES

HOLIDAY LETS

A domestic property will only be business rated provided that it is available to let at least 140 days per year and it cannot be a person's sole or main residence (their home).

Property owners are required to provide the Council with the following information;

- Confirmation of the number of days it is available to let
- Their main address details if not already supplied
- The date it was made available to let
- The name and address of the letting company the property is being advertised through
- The owners customer and/or booking reference number with that company

If a property is classed as a holiday let it sits within the Commercial property valuation list held by the Valuation Office Agency (VOA) and the owner is legally responsible for the waste collection from their business.

The owners are informed that they may require planning permission for a change of use and they are provided with the planning email address. They are also advised that they will need to make arrangements for their waste collection service as the cost of this is not covered by business rates.

Upon receipt of the above information a report is sent to the VOA. The Service Level Agreement to action these reports is three months - the majority are actioned within this time period but some take longer possibly due to not getting relevant information from the owners. The date of change is the date the VOA advises us it has been brought into the commercial list.

ROOMS WITHIN A DOMESTIC PROPERTY

If the Council is made aware that a room in a property is being advertised through a company such as Air BnB, provided it meets the above criteria, the Valuation Office Agency (VOA) will be informed to split the domestic property to business rate the room and carry out a council tax banding review of the remainder of the property.

SECOND HOMES

Domestic properties which are not utilised as a person's sole/main residence and are substantially furnished are classified as second homes for council tax purposes.

Under the Council Tax (Prescribed Classes of Dwelling) (England) (Amendment) Regulations 2012 local authorities can set the level of discount a second home is entitled from 50% to 0%. The level of discount in the Ryedale District area for second homes is set at 0% and therefore attracts a full Council Tax Charge.

Scenarios where the Council will deem a property as a second home are:

- Where a person has an existing main home elsewhere and predominantly utilises the property for their own personal use as an occasional residence
- Where an owner lets a property to tenants as furnished and it is left vacant in-between tenancies
- Where a person is using the property to stay, but is deemed to have their main residence elsewhere for council tax purposes

Properties classified as second homes are:

- Deemed not to be used as any persons' sole/main residence
- Subject to 100% council tax liability
- Not eligible to receive occupancy based reductions including single person discount

SMALL BUSINESS RATE RELIEF

Small Business Rate Relief is payable to any business ratepayer whose property's rateable value is less than £15,000. This is on condition it is their only business rate liability. 100% relief is applied to properties with a rateable value of up to £12,000. It is tapered from 100% to 0% relief on properties whose rateable value falls between £12,001 and £15,000. In other words, RV of £13,500 would get 50% relief.

Checks are made to see if the properties are listed/registered when the customer provides the relevant link. However, it is not possible to check to see if they are let for the minimum period nor does the VOA.

This is a well-publicised loophole which the government is looking to address in its Levelling Up programme and is currently calling for evidence through a consultation which runs until 21 September 2022 to develop a tourist accommodation registration scheme in England as part of the government's Tourism Recovery Plan.

CHANGES TO LEGISLATION FROM 1 APRIL 2023

A loophole that allows second homeowners to evade both business rates and council tax on a furnished holiday let property will close, as from April 2023.

Landlords will have to prove holiday lets are being rented out for a minimum of 70 days a year to access Small Business Rates Relief (SBRR), where they meet the criteria. Holiday let owners will also have to provide evidence such as a website or brochure that advertises the property, as well as letting details and receipts.

Properties will also have to be available to be rented out for 140 days a year to qualify for this relief. Under the new rules in England, a property will now be assessed for business rates, not council tax, only if the owner can provide evidence that:

- a) It will be available for letting commercially, as self-catering accommodation, for short periods totalling at least 140 days in the year after the day in question
- b) During the previous year, it was available for letting commercially, as self-catering accommodation, for short periods totalling at least 140 days
- c) During the previous year, it was actually let commercially, as self-catering accommodation, for short periods totalling at least 70 days.

WASTE COLLECTION

The Council has a statutory duty to collect waste and recycling from domestic properties in line with the Controlled Waste (England and Wales) Regulations 2012 the cost of which is covered by Council Tax.

The Council has a statutory duty to make arrangements for the collection of commercial waste, if requested by the occupier, which is a chargeable service and is not covered by business rates.

Waste from a domestic property used in the course of a business for the provision of self-catering accommodation is classified as commercial waste where a charge for collection can be made (The Controlled Waste (England and Wales) Regulations 2012 – Schedule 1 (11))

Business owners are responsible for the disposal of their business waste in accordance with Regulation 12 of the Waste (England & Wales) Regulations 2011 and the duty of care legislation issued under section 34(7) of the Environmental Protection Act 1990.

The Council is an authorised waste carrier and businesses are responsible for

ensuring that their waste is managed correctly however they are not obliged to arrange this with the Council. Businesses must keep a copy of their waste transfer note for 2 years. The regulators for the duty of care and any enforcement action are the Environment Agency and local authorities.