

THE STATES OF DELIBERATION  
of the  
ISLAND OF GUERNSEY

**DEVELOPMENT & PLANNING AUTHORITY**

**TEMPORARY EXEMPTION FROM REQUIREMENT FOR PLANNING PERMISSION FOR  
CERTAIN CHANGES OF USE OF VISITOR ACCOMMODATION**

The States are asked to decide:-

Whether, after consideration of the "Temporary Exemption from Requirement for Planning Permission for Certain Changes of Use of Visitor Accommodation" policy letter dated 11<sup>th</sup> January 2021 they are of the opinion:-

1. To agree that –
  - (a) a change of use of visitor accommodation from a use within use class 7 or 8 of the Land Planning and Development (Use Classes) Ordinance, 2017 to a use within residential use classes 1, 2 or 5 in that Ordinance, which took place or will take place between the 25<sup>th</sup> March, 2020 and the 31<sup>st</sup> December, 2021 inclusive, is temporarily exempted from the requirement for planning permission subject to specified conditions being met including that the use reverts back to its previous lawful visitor accommodation use prior to 25<sup>th</sup> March, 2020 by the 31<sup>st</sup> January, 2022, and
  - (b) a change of use back to the lawful visitor accommodation use prior to the 25<sup>th</sup> March, 2020, in compliance with the proposed exemption in paragraph (a), is also exempted from the requirement for planning permission,

as set out in paragraphs 6.1 to 6.6 of the policy letter.
2. To agree that the planning legislation is modified so that the period during which the temporary exemption runs, for certain changes of use of visitor accommodation, is disregarded for the purpose of calculating the period within which a planning compliance notice may be issued, where there is a breach of planning control, as set out in paragraph 6.7 and 6.8 of the policy letter.
3. To agree that an owner or occupier of non-serviced visitor accommodation which is being used legally as a winter let between

November and March in a twelve month period must notify the Development & Planning Authority in writing of the commencement of such use within 21 days of the use first occurring in each winter let period as set out in paragraphs 6.9 and 6.10 of the policy letter.

4. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

## **DEVELOPMENT & PLANNING AUTHORITY**

### **TEMPORARY EXEMPTION FROM REQUIREMENT FOR PLANNING PERMISSION FOR CERTAIN CHANGES OF USE OF VISITOR ACCOMMODATION**

The Presiding Officer  
States of Guernsey  
Royal Court House  
St Peter Port  
Guernsey

11<sup>th</sup> January 2021

Dear Sir

#### **1. Executive Summary**

1.1 The main purposes of this policy letter are to approve proposals to –

- i. temporarily exempt certain changes of use of visitor accommodation which took place or will take place between 25<sup>th</sup> March, 2020 and the 31<sup>st</sup> December, 2021 inclusive subject to certain conditions being met including that the visitor accommodation reverts back to its previous lawful use prior to 25<sup>th</sup> March, 2020 by the 31<sup>st</sup> January, 2022 in view of the recent and ongoing issues faced by the visitor economy as a result of the coronavirus pandemic;
- ii. in consequence of the previous proposal, to modify planning legislation so that the period during which the proposed temporary exemption runs is disregarded for the purpose of calculating the period during which a planning compliance notice can be issued, where there is a breach of planning control;
- iii. require an owner or occupier of non-serviced visitor accommodation which, under legislation already in force, is legally being used as a winter let between November and March to notify the Development & Planning Authority of such use within 21 days of the use first occurring in each winter let period.

- 1.2 In March 2020, the Development & Planning Authority (“the Authority”) and the Committee *for* Economic Development (“the Committee”) agreed to suspend on a temporary and interim basis, certain restrictions relating to the use of serviced and non-serviced visitor accommodation during the coronavirus pandemic in light of the decision of the Civil Contingencies Authority to require travellers into the Bailiwick to self-isolate for fourteen days on arrival and the consequential impact on the Island’s hospitality sector.
- 1.3 More recently, in December 2020, representatives of the Guernsey Hospitality Association (“the Association”) have asked whether these temporary measures could be extended into the 2021 tourist season given the uncertainties around when the coronavirus-linked travel restrictions may be lifted and so enable visitors to travel in the normal way to Guernsey for holidays and business purposes.
- 1.4 The policy letter seeks to explain how the Authority intends to respond to the Association’s request whilst ensuring that the Island’s current visitor accommodation provision is not negatively impacted through an unintended exit by some owners from the sector.

## **2. Background**

- 2.1 On 18<sup>th</sup> March 2020, the Civil Contingencies Authority made the Emergency Powers (Coronavirus) (Bailiwick of Guernsey) Regulations, 2020, to prevent, control or mitigate the spread of the Coronavirus in the Bailiwick. The Regulations provided for any person arriving in the Bailiwick from an infected area to be required to self-isolate for a period of fourteen days following their arrival. Further, the Bailiwick entered “lockdown” on 25<sup>th</sup> March 2020 and as a result all but essential travel to and from the Bailiwick was restricted.
- 2.2 The requirement for self-isolation and the restrictions on travel had a major impact on Guernsey’s visitor accommodation sector as it severely restricted the number of business or leisure visitors travelling to Guernsey.
- 2.3 At its meeting on 17<sup>th</sup> March 2020, the Committee *for* Economic Development, having considered the implications of allowing self-catering accommodation to extend winter lets and take on long term lets over the summer, without planning permission, as a means of countering the impact of lost visitor bookings due to the impact of coronavirus, agreed to:
- (i) suspend Conditions 3 and 4 of permits granted to serviced and non-serviced visitor accommodation providers immediately and for the duration of any travel restrictions relating to the corona virus outbreak;
  - (ii) invoke Condition 5 of such permits to require all serviced and non-serviced visitor accommodation permit holders to provide details of all

persons being accommodated for reward, periods in excess of three weeks, until further notice; and

- (iii) formally request the Development & Planning Authority to waive or suspend any potential enforcement action against holders of permits for serviced or non-serviced visitor accommodation resulting from the provision of long term accommodation for persons, as from 1<sup>st</sup> April 2020 until such time as the Committee *for* Economic Development decided reasonable.

2.4 The Committee issued a notification to visitor accommodation providers explaining its decisions (see Appendix 1).

2.5 On 1<sup>st</sup> April 2020, the Development & Planning Authority (“the Authority”) agreed, in light of the circumstances brought about by the Coronavirus outbreak, that enforcement action would not be pursued against the use of serviced or non-serviced visitor accommodation for longer-term accommodation for non-visitors until 30<sup>th</sup> September 2020. This decision was later extended to the 31<sup>st</sup> March, 2021. The decision was subject to review should the prevailing circumstances change.

### **3. Classification of visitor accommodation under the Land Planning and Development (Use Classes) Ordinance, 2017**

3.1 Visitor accommodation is classified and defined under the Land Planning and Development (Use Classes) Ordinance, 2017 (“the Use Classes Ordinance”) in the following terms:

- (a) Visitor economy use class 7: serviced accommodation is defined as – premises providing temporary accommodation for visitors for reward, with a standard or high level of guest services, and includes for the avoidance of doubt, premises providing such accommodation and services which would be categorised as a hotel, guest house, bed and breakfast accommodation or a serviced apartment under the Tourist Law, 1948 were a permit to be granted in respect of those premises under that Law i.e. hotels and guest houses; and
- (b) Visitor economy use class 8: non-serviced accommodation is defined as – premises providing temporary accommodation for visitors for reward, with no, or only a basic level, of guest services, and includes,
  - (i) premises of such a description which would be categorised as a self-catering unit under the Tourist Law, 1948 were a permit to be granted in respect of those premises under that Law, and
  - (i) premises of such a description which also provide sleeping accommodation or lodging but not board to persons other than visitors at any time between 1<sup>st</sup> November and 31<sup>st</sup> March

inclusive (known as a winter let) in any 12 month period; i.e. self-catering visitor accommodation.

#### **4. Extension of “winter lets”**

- 4.1 In December 2020, representatives of the Guernsey Hospitality Association (“the Association”) approached the Committee, the Authority and the Civil Contingencies Authority for an indication of whether the requirement for those arriving in the Bailiwick to self-isolate for a period, which will continue to severely limit the numbers travelling to Guernsey for business or leisure, is likely to continue into 2021 and the start of the traditional visitor season around Easter 2021.
- 4.2 Use of non-serviced visitor accommodation as winter lets is included in the use class for such accommodation but only from 1<sup>st</sup> November to 31<sup>st</sup> March (known as “a winter let”). The current winter let period will come to an end on 31<sup>st</sup> March 2021. The Association has advised that, given the uncertainty about when the current self-isolation requirements for those travelling into the Bailiwick may be eased, its members are reluctant to take bookings for 2021 or to start advertising to their various target markets. The Association has asked that consideration be given to extending the “winter let” period for self-catering accommodation for the 2021 tourist season, i.e. between 1<sup>st</sup> April and 31<sup>st</sup> October 2021 and to also allow hotels and guest houses, usually serviced visitor accommodation, to offer accommodation to persons other than visitors.
- 4.3 The Authority is keen to support the owners of visitor accommodation through the 2021 tourist season to assist them in managing the use of their premises more flexibly in relation to offering it to those seeking temporary accommodation in a hotel, guest house or self-catering unit. It recognises that such a flexible approach would enable the owners to continue to operate and so retain a level of viability within the visitor accommodation sector and be able to return to full trading once travel restrictions are eased or lifted.
- 4.4 The Committee has also indicated that it is supportive of the Association’s request. It has advised that it is essential to ensure that the Island’s visitor accommodation sector is able to continue to operate, albeit in a modified form, into the 2021 tourist season and so be in a position to resume normal trading as soon as travel restrictions are eased and both leisure and business travellers start to return to Guernsey. The Committee recognises that it is important to ensure that any relaxation on the use of visitor accommodation should be a temporary measure linked to the impact of the Coronavirus on the Island’s tourism sector and must not result in any permanent loss of accommodation from the sector.

## **5. Likely duration of an extension of “winter lets”**

- 5.1 The Civil Contingencies Authority has indicated that the availability of a vaccine is likely to be an important consideration when reviewing the necessity to maintain some form of border controls, including mandatory periods of self-isolation for those travelling into the Bailiwick from other jurisdictions, into 2021. However, it is mindful that the vaccine has been shown to be effective in preventing serious disease and death from Coronavirus but there is currently no clear evidence to indicate whether the vaccine will also be effective in preventing or limiting the transmission of the virus from one person to another. It has indicated that, although the availability of a vaccine is an important milestone in the endeavours to prevent, control or mitigate the impact of the virus on the community, it is too early to determine whether, as more people are vaccinated, this will lead to an easing of the current border restrictions.
- 5.2 The Civil Contingencies Authority has advised that any decision on the easing of border restrictions will be based on a range of factors, including the prevalence rates in the regions or countries from where people are travelling. It is likely that the current level of travel restrictions will remain in place for at least the first quarter of 2021 and so may impact on the 2021 tourist season as advance bookings are likely to be delayed.

## **6. Temporary exemption for certain changes of use of visitor accommodation**

- 6.1 In light of the above indications, the Authority has concluded that, given the length of the requested relaxation of planning restrictions, provision should be made in the planning legislation to give clarity to visitor accommodation providers and the Authority.
- 6.2 The Authority proposes that the amendment should allow for a temporary exemption from the requirement for planning permission for a change of use of premises in visitor economy use to certain residential uses, i.e. premises falling within the existing use classes 7 (used as serviced visitor accommodation) and 8 (used as non-serviced visitor accommodation) to a use within use class 1 (dwelling house), use class 2 (flat) or use class 5 (use of part of dwelling for business purposes - this is where the principal use is a dwelling but a limited part is used for business).
- 6.3 The Authority recommends that this temporary change should be subject to certain conditions to ensure proper control and oversight of the visitor accommodation sector. The proposed conditions are:
- (a) the change of use is one which first occurs in the period starting on 25<sup>th</sup> March, 2020 and ending on the 31<sup>st</sup> December, 2021; and

- (b) the premises reverts to its previous lawful use, immediately before the 25<sup>th</sup> March, 2020, on or before the 31<sup>st</sup> January, 2022; and
- (c) the owner or occupier notifies the Authority in writing of the date the change of use first occurred within a specified time.

The Authority believes that these conditions are proportionate and will protect the visitor accommodation for the future when the Island's tourist economy is able to return to pre-Coronavirus levels.

- 6.4 The Authority intends to make the notification process simple and so easy for both its staff and the owners of visitor accommodation to administer. It anticipates that notification should be possible by an email setting out certain key information, including the name and address of the premises, the use class the premises will fall into during the temporary exemption and the expected duration of the temporary use.
- 6.5 The exemption will also include a condition that the premises revert to their authorised use prior to 25<sup>th</sup> March 2020 on or before 31<sup>st</sup> January 2022. There will also be a related exemption from the need for planning permission for this change of use back to visitor accommodation use.
- 6.6 The Authority is proposing that the exemption be limited to the 2021 tourist season. However, it is mindful that there are many unknowns around the prevalence of the Coronavirus and its impact on Guernsey. In the, hopefully, unlikely event that the 2022 tourist season may be similarly impacted, it will consider presenting a further short policy letter to extend these provisions as may be necessary to protect Guernsey's visitor accommodation sector.

## **7. Related modification to calculation of period within which a compliance notice may be issued**

- 7.1 In addition, it is proposed that provisions relating to the calculation of the period within which a compliance notice may be issued, if there is a breach of planning control, are modified where a temporary change of use has been made in reliance on the exemption. Under planning legislation a compliance notice can only be issued within a certain period of a breach of planning control occurring or of the Authority's knowledge of the breach. In the circumstances, it is considered that this period should be modified so that the effective period of the exemption, from the date of the coming into force of the legislation until the end of January, 2022, is disregarded in calculating that period.
- 7.2 This is just in case the use of visitor accommodation is changed consistent with the exemption but any of the conditions of the exemption are not met so that a breach of planning control occurs.



## **8. Notification of use of non-serviced visitor accommodation as a winter let**

- 8.1 The policy letter also proposes that an amendment is made at the same time to require the owners or occupiers of non-serviced accommodation, which is legally being used as a winter let between 1<sup>st</sup> November and 31<sup>st</sup> March, to notify the Authority of the commencement of such use, within 21 days of such use first occurring, in each winter let period.
- 8.2 This provision will ensure consistency of approach and thereby assist the Authority in its oversight of compliance with the requirements for non-serviced accommodation under the Use Classes Ordinance. In this way it should ensure that premises designated under Visitor Economy Use Class 8 do not seek to move to a different use class, e.g. to one of those covering residential use, without the benefit of the relevant planning permission.

## **9. Consultation**

- 9.1 The Development & Planning Authority has consulted with the Law Officers of the Crown in the preparation of this policy letter.
- 9.2 The Development & Planning Authority has also consulted with the Committee *for* Economic Development which supports the proposals set out in this Policy Letter. A copy of the letter of response from the Committee *for* Economic Development is attached at Appendix 2.
- 9.3 The Development & Planning Authority has also consulted with the Guernsey Hospitality Association which has confirmed that it is supportive of the proposed extension to the current exemption from the requirement of planning permission for certain changes of use of visitor accommodation.

## **10. Conclusions**

- 10.1 In preparing this policy letter, the Development & Planning Authority has sought to balance the request of the Guernsey Hospitality Association for greater flexibility in how its members may use their premises to maintain an income stream during a time when most business and leisure visitors are not travelling to Guernsey with the need to ensure that those premises are not lost for visitor economy uses. The Authority recognises that the visitor economy may play an important role in the Island's recovery from the impact of the coronavirus and beyond.

## **11. Compliance with Rule 4**

- 11.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.
- 11.2 In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.
- 11.3 In accordance with Rule 4(2) of the Rules of Procedure of the States of Deliberation and their Committees, the Committee has written to the Policy & Resources Committee to request that this policy letter be scheduled for debate at the February 2021 States meeting.
- 11.4 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions above have the unanimous support of the Committee.
- 11.5 In accordance with Rule 4(5), the Propositions relate to the duties of the Development & Planning Authority in respect of land use and planning, and its duties under the Land Planning and Development (Guernsey) Law, 2005, as amended.

Yours faithfully

V S Oliver, President

A Taylor, Vice President

J F Dyke

A Kazantseva-Miller

C J Le Tissier

## APPENDIX 1



### Corona Virus update for the visitor accommodation sector

Dear Visitor Accommodation provider

Planning use restrictions on alternative uses of visitor accommodation will now be suspended to March 31st 2021. This means that you can continue to accommodate persons for reward other than visitors to the island, and for periods longer than would normally be the case.

Please note that the specific details of what can be undertaken may differ for different accommodation types, and more information is given below.

The important points for accommodation providers to consider as a result of this provision include:

- Non-visitors can be accommodated temporarily in visitor accommodation premises;
- Visitor accommodation premises where the use is switched to other purposes must be returned to their approved use at when this extraordinary provision ceases;
- If you intend to accommodate **any person** for reward, irrespective of their status, you are required by Law to obtain a valid permit to do so, and a permit may be necessary to maintain your status e.g. Open Market Register, Liquor Licence, etc.
- Standard Permit Conditions 3 & 4, relating to who may be accommodated in your premises, will be suspended for the period of this provision. Notwithstanding all persons must be accommodated legally;
- Accommodation providers must maintain a register of all guests, in accordance with Condition 7 of their permit;
- Accommodation providers should ensure that at all times they operate in line with the advice and provisions published by the States at [www.gov.gg/coronavirus](http://www.gov.gg/coronavirus)

For the time being the annual grading programme is on hold, so all current accommodation ratings and awards will be carried forward, until such time as that programme can be re-instated.

Other useful links for accommodation **businesses** at this time:

<https://www.gov.gg/covid19guidance> and <https://guernseytrademedia.com/https://sogmt.microsoftcrmportals.com> (for permit applicants)

Individuals seeking personal advice should refer to [www.gov.gg/coronavirus](http://www.gov.gg/coronavirus)

Temporary Provisions for alternative uses of visitor accommodation premises until further notice:

- Use for short term lettings for “staycations” is not an issue
- In view of the particular exceptional circumstances of the current coronavirus outbreak, government is considering exceptional measures to ensure business continuity in the visitor accommodation sector, the Development & Planning Authority is pleased to be able to help by agreeing to suspend, for a temporary period, any potential enforcement action against holders of Boarding Permits where a change of use occurs, without prior planning permission, resulting from the provision of accommodation of people for a longer period, provided that they revert to their authorised use at the end of the suspension period.
- The DPA has agreed that the period of suspension which came into effect from 1<sup>st</sup> April 2020 and will now last until 31<sup>st</sup> March 2021 unless the Authority decides it is necessary to review the dates given prevailing circumstances. This decision has been taken in the knowledge that all permit holders are required under the terms of their permits to keep, and if required provide to the Committee for Economic Development, details of all persons being accommodated under that permit, including the length of stay.
- Potential use of visitor accommodation premises to support virus control measures by Public Health.
- Accommodation providers taking advantage of this provision by accommodating non-visitors must register their intention to do so with Marketing & Tourism before commencing any such activity.

If this advice is reviewed or liable to change we will strive to inform you at the earliest possible opportunity.

Please be advised that the Guernsey Information Centre will be closed until further notice – incoming calls will be re-directed.

If you have any questions about this particular communication, please call the Marketing & Tourism Quality Development Team at 234567.

## APPENDIX 2



Committee *for*  
Economic Development

Deputy Victoria Oliver  
President  
Development & Planning Authority  
Sir Charles Frossard House  
La Charroterie  
St Peter Port  
Guernsey  
GY1 1FH

PO Box 451  
Level 4  
Market Building  
Fountain Street  
St Peter Port  
Guernsey  
GY1 3GX

+44 (0) 1481 743835  
**New number WEF 1 Feb 2021**  
+ 44 (0) 1481 222801

[www.gov.gg](http://www.gov.gg)

By E-mail: [developmentandplanning@gov.gg](mailto:developmentandplanning@gov.gg)

7<sup>th</sup> January 2020

Dear Deputy Oliver,

### **Temporary Exemption from Requirement for Planning Permission for Certain Changes of Use of Visitor Accommodation**

Thank you for sharing the Development & Planning Authority's draft Policy letter on the temporary exemption from requirement for planning permission for certain changes of use of visitor accommodation with Members of the Committee *for* Economic Development.

Deputy Inder has recused himself from this matter and has not seen or commented on the draft policy letter, as he operates self-catering units and therefore has a direct interest in this matter. Deputy Kazantseva-Miller sits on the DPA and has therefore also recused herself from commenting on behalf of the Committee *for* Economic Development, as a matter of good governance.

In order to meet the submission deadlines the draft policy letter was circulated by e-mail to Deputy Falla, Deputy Moakes and to myself as the Committee's Tourism Lead. The three Members consulted are all supportive of the proposed approach set out in the policy letter, to provide a temporary exemption from the requirement for planning permission for certain changes of use of visitor accommodation during 2021, in the light of the impact of Covid-19 on local accommodation providers.

As you will no doubt be aware, the previous Committee *for* Economic Development had supported the recent 6 month temporary suspensions that had been agreed on a rolling 6 month basis and will expire on 31<sup>st</sup> March 2021. The Members of the Committee *for* Economic Development consulted on this matter agree with the CCA and the DPA that providing local accommodation providers with clarity in relation to a temporary exemption for the whole of 2021, is entirely appropriate in the light of the impact of Covid-19 on the local accommodation sector and will provide welcome clarity to local accommodation providers. The exemption, if approved by the States Assembly, will provide a significant

proportion of accommodation providers with greater certainty of bed night revenue and cash flow during what will be a very uncertain Tourism season. Members noted that the members of the Guernsey Hospitality Association have called for the proposed approach.

The Members of the Committee for Economic Development who have been consulted on this matter therefore have no hesitation in supporting the DPA's proposed policy letter.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Simon Vermuelen', with a long horizontal flourish extending from the end of the name.

**Deputy Simon Vermuelen**

Committee Member and Tourism Lead

Copy: Deputy Ferbrache, Chairman of the Civil Contingencies Authority