

3rd March 2022

Mrs Julie James M.S - Minister for Climate Change

Welsh Assembly Government

Crown Building

Cathays Park

CARDIFF

CF10 3NQ

Dear Minister,

**Technical Consultation on the draft Non-Domestic Rating (Amendment of**

**Definition of Domestic Property) (Wales) Order 2022**

Please accept this open letter as an expression of our dismay at the contents of the draft order. While we have views on the level of council tax proposed, it is the threshold for distinguishing between a second home/casual let and a self-catering business (FHL) which is the subject matter of this letter.

Your announcement of 2nd March 2022 came as a complete shock to the tourism industry, most particularly bona fide FHLs. Key representatives had responded in good faith to the consultation on second homes, as keen to distinguish between FHLs and second homes/casual lets as the Welsh Government is.

In fact, FHLs had, themselves, offered the position that the current threshold is not sufficiently ambitious to create the distinction.

The Wales Tourism Alliance had suggested that the NDBR thresholds be raised to parity with the HMRC’s **availability** condition of at least 210 days in the year (already an increase from the 140 days prior to 2012) and **occupancy** as a commercial, furnished holiday accommodation for at least 105 days in the year. This represents a 50% increase in both criteria, and is readily understood by FHLs, familiar with HMRC, making introduction less confusing.

The draft order raises both those criteria dramatically: the number of days the property must be available rises from 140 to 252 days, an 80% increase, and the number of days a property **must** be let rises from 70 to 182 days, a rise of over 150%. There is no explanation as to why these figures have been chosen.

Responses to Q9 in your own consultation are clear that this is not the majority position. That is despite the fact that many respondents were strongly anti-second homes and who, perhaps, did not distinguish between FHLs and domestic properties. Of the 155 responses suggesting a rise on the **availability** criterion, 149 proposed thresholds higher than the current 140 days, ranging from 150 to 365 days. The most common specific suggestion was **210 days** a year. The most common specific suggestion for **commercial occupancy** was **105 days**, with others ranging between 182 days or 6 months (9 responses).

While we understand that you wish to take firm action on second homes and those who game the local tax system, these proposed changes show no understanding of how FHLs operate and how they deal with inconsistency of demand.

FHLs would be delighted to be able to guarantee 182 days of occupancy. Some, perhaps, can in areas of exceptionally high demand. They are not typical of the sector. However, the thresholds you propose affect all Wales and are not discretionary (unlike the council tax premium on second homes). We want FHLs to pull out all the stops, but this occupancy threshold will be out of reach for too many, regardless of how hard they try, yet their contribution to their local economy and jobs market remains invaluable.

Demand is down to the customer and the seasons. Even 52 long weekends would not reach the proposed occupancy threshold and it is a rare FHL that secures 52 long weekends. It would be extremely ambitious to think that the rest could be made up by weekly bookings in high season, especially in parts of Wales where *under*-tourism is the issue.

We urge you to reconsider these thresholds, particularly the occupancy threshold. Even the most vigorous marketing of quality FHL accommodation cannot **guarantee** the equivalent of six months of end-to-end bookings. It would be erroneous to make any assumptions based on the pandemic period as this cannot be seen as indicative of future demand patterns.

Furthermore, these proposals have been prepared on the assumption that all properties, whether FHLs or casual lets, would be suitable as homes. FHLs have to comply with industry standards (unlike casual lets) but this is not the same as for domestic residential lets:

1. Many FHLs are single units owned by families within the curtilage of their own homes. They will be paying business rates on that unit and, even if eligible for the small business exemption, will be paying premium business costs for council services such as waste collection. If they cannot meet the new occupancy thresholds, these micro businesses would be unviable at the new council tax rates. They would then lose a substantial part of the family income (taxed), but without releasing a property into the residential housing market.
2. Many self-catering units have planning permission to operate solely as commercial units, e.g., farm diversification, and fall outside the council tax regime altogether. If providers fail to meet the occupancy threshold, they cannot simply be transferred into domestic property taxation.
3. Many properties are not in villages but in locations where they are of no interest and often in too poor a condition - to be attractive to local residents

Conversely, the new proposal would effectively:

* + Discourage businesses who cannot meet the occupancy threshold consistently and shut out new entrants to the self-catering industry in those parts of Wales where there is under-tourism and no threat to community identity or cohesion (see the Brooks report). This would no longer be a viable option for rural business diversification.
  + Discourage the bringing back into use of empty properties, especially those where mortgage valuations are low compared to asking price, and where renovation/maintenance costs are too high in comparison to the size and value of the property. We suggest that the NDR threshold and council tax proposals will both stifle investment in older properties, undermining the purpose for which these changes have been proposed.
  + England, our nearest competitor and source of most overnight visitors to Wales, has recently adopted an occupancy threshold in line with Wales current threshold of 70 days. Wales self-catering businesses would be placed at a distinct commercial disadvantage to English businesses, particularly those on the eastern border of the country where under-tourism is an issue and where the Brooks report pointed to there being no second homes issue.

Finally, we understand that your department is focused on addressing the second homes issue which undoubtedly faces some communities in Wales. However, Welsh Government also has its responsibilities to the Welsh economy. Tourism is a major industry in Wales. We imagine these proposals will be a concern to the Minister of a different department in the absence of modelling or economic impact assessment.

We are not aware, either, of any modelling on how this will affect the tax take from the tourism industry, a matter of some interest to another Minister. Tourism businesses have made it clear they do not support the gaming of the local tax system and understand their role in contributing through fair taxation. These thresholds deny them the opportunity to pay fair local business tax.

The tourism industry has found itself in a very unstable position because of covid, recognised by the fact it had additional Welsh Government assistance during lockdown. The effects will not disappear overnight and it is very difficult to extrapolate anything from the figures for 2020 - 2022 in order to have a clear picture of the future.

What is clear, though, is that - on top of other pressures recorded elsewhere - the cost-of-living rises will affect businesses and, just as importantly, those who would like to holiday in Wales; a good quarter of them are from Wales itself. Welsh Government’s own research points to the family budget being the main predictor of holiday choices. The industry is facing a growing trend of last-minute booking and, now, fierce competition from the lower price-point overseas holiday market.

Wales tourism is more than its coastal hotspots. It has been caught up in attempts to mitigate lack of investment in housing supply and local authority budgets at a time when it is trying to find some equilibrium, retain its good reputation, provide jobs and contribute to the country’s coffers.

Please don’t throw the baby out with the bathwater.

Yours sincerely,

Suzy Davies

**Suzy Davies**

*Chair – Wales Tourism Alliance*

c.c. Vaughan Gething M.S. – Minister for the Economy & Transport of Wales

c.c. Rebecca Evans M.S. - Minister for Finance & Local Government