

**JOINT STATEMENT OF EVIDENCE BY**  
**PROFESSOR NICK GALLENT AND PROFESSOR MARK TEWDWR-JONES, UCL**  
**TO THE LOCAL GOVERNMENT, AND HOUSING COMMITTEE, SENEDD.**  
**SESSION ON SECOND HOMES**  
**17 NOVEMBER 2021**

**GENERAL COMMENT**

***1. Background***

1.1 We are currently engaged in research on a range of regional and local planning, place-based leadership, digital planning, rural planning, and housing issues.

1.2 Prof. Gallent is part of a team undertaking a study of land use planning's contribution to a range of rural policy conundrums for the RTPI. He is also working with English Rural HA on necessary adaptations to the policy framework for delivering affordable homes in rural areas and has completed recent work, funded by UCL, on local occupancy conditions and on the mechanisms available to promote affordable housebuilding, led by CLTs and / or registered providers and local authorities.

1.3 Prof. Tewdwr-Jones is presently undertaking a range of research projects relating to urban and regional futures, planning, public engagement in local planning, the development of digital tools to shape and manage places, and place innovation. He is a member of the RTPI Digital Planning Task Force, the International Centre for Local and Regional Development, and the Connected Places Catapult. He completed a five year directorship of Newcastle City Futures in 2019, and has undertaken work recently for Lloyd's of London on Cities at Risk, a digital engagement platform for MHCLG/DLUHC on the Oxford-Cambridge railway, and the revitalization of high streets and town centres with London Boroughs.

1.4 Profs Gallent and Tewdwr-Jones led a Welsh Government-funded research study on 'Second and Holiday Homes and Land Use Planning' in 2002. Our general comment, below, on second homes at the current time is extracted from ongoing work for the RTPI. We also provide some comments on planning. Finally, we provide some reactions the recommendations emerging from Dr Simon Brooks' recent work for the Senedd.

***2. Second Homes***

2.1 Second homes are one outcome of the movement of mobile capital into rural areas. Their owners are motivated by investment and access to amenity. The distribution of second homes is largely determined by accessibility and amenity value, whether homes are easy to get to and whether they offer the sort of amenities and opportunities (access to the open countryside or attractive coasts and coastlines) that are absent in the places that purchasers have their primary homes.

2.2 'Second homes' are used privately by the owner and by friends and family. They are not let commercially. Homes offered for short-term letting on AirBnB (or similar) or through bookings agencies are 'holiday homes'. There is a further distinction between second and holiday homes that are purpose-built (in planned second and holiday home villages and subject to occupancy restriction) and those that

are removed from the general housing market and become unavailable to full-time residents. The latter have been the subject of greatest concern for more than 40 years and are split between those that are 'new build' and those that are 'converted' from existing stock.

2.3 Whilst planning can restrict the occupancy of new-build housing, using planning conditions to ensure that homes are lived in full time (e.g. "for more than 270 days each year"), it cannot dictate the use of existing residential property. There is no distinction in planning law between a home occupied full time or part time, or a home that is rented out using an 'assured short-hold tenancy' (AST) or a week-long let. A home is, legally, a 'dwelling house' irrespective of its pattern of use. On many occasions over the decades, the case for setting such a distinction has been made. And on each occasion, successive UK Governments have rejected the idea, viewing it as an infringement on the free use of private property. But, in terms of land use planning, it appears to be the sole means of controlling the growth of second homes. Occupancy restrictions on new housing have little effect as the typical second home buyer is looking for the archetypal traditional looking ('period') property cottage and not a red-brick new build.

2.4 Assuming for a moment that a distinction in use pattern could be made, and an amendment to the Use Classes Order was possible, to distinguish between first and second home use, the question becomes how this would be enforced. The burden of enforcement placed on local planning authorities to monitor all relevant properties would be considerable. Local government would need a significant injection of new resources to keep track of the way homes were being used, and then take enforcement action against non-compliant owners.

2.5 Accordingly, a more pragmatic way to deal with use might be through an amendment to target short-term letting: to specify that the C3 Use Class permits any pattern of private use and long term, AST-based, letting. A separate Use Class could then be created for commercial use, including AirBnB-style short lets.

2.5 This change in secondary legislation would be unlikely to satisfy those calling for an outright ban on second homes. But, as we note above, second homes are an expression of the inward movement of mobile capital into an area. The effect that movement has on the trajectory of house prices is not 'artificial' but a product of a free market in private property. Affordability ratios – the relationship between in-area workplace earnings and housing costs – are stretched for reasons of supply scarcity, inheritance (giving advantage to households with a family history of property ownership) and the movement of mobile capital. In rural areas, ratios are typically 1:8. In parts of London, they hit 1:40. What this means is that earnings (and typical loan advances) are not determining prices. Rather, it is the movement of existing capital into housing (from overseas into London townhouses, or from cities into rural cottages, or from rural areas themselves into additional investment homes) that has the greatest price-setting effect.

2.6 It is also the case that those movements scaffold house prices. A great many rural households benefit from rising prices, either directly as vendors, or indirectly as the value of their homes increase. Where equity in housing grows, so too does consumer confidence. House prices drive spending and investment in local economies. They drive job creation in the service sector and, by incentivizing development and refurbishment, also in the construction sector. Great care needs to be taken when restricting patterns of housing consumption. This is the dilemma that planners have to face as nobody wants to see communities wither and die socially and economically. Allowing change is vital.

2.7 It is our view that planning needs to be positive and proactive, and needs to be harnessed to support communities in a way that it is currently not doing. It needs to support, for example, registered providers that are looking to provide affordable housing outside of the market. And those providers should be offering shared ownership options for household aspiring to acquire their own homes.

2.8 If there is a wider economic case for calming the flow of mobile capital in housing, this may be achieved – not through planning law but – through higher transaction taxes (SDLT or LTT) or through the equalization of tax rates on work and property: by extending the 2021 social care levy to rental income and levying capital gains tax on property sales at the personal tax rate. Such measures are proven to be effective and do not add to the work burden of already over-stretched local authorities.

### **3. Planning**

3.1 Frustration with the form and operation of local planning has been an ongoing issue for governments, developers and communities so long as planning has existed. The reason for that is often that it does not appear to deliver what any one person expects from it. It is the unpopular referee in the middle of a game, that practically and legally has to deliver change and development, protect landscapes and heritage, allow the public a democratic voice in the system, address short term needs and long term trends, is expected to address economic growth and sustainable futures simultaneously, and has to meet local, regional and national interests. It is little wonder that every policy and every decision becomes a delicate balancing act, shaped in no small measure by statute, case law, national considerations, and local policies.

3.2 Both national policies and local policies are meant to shape local planning decisions perhaps to a greater degree than other considerations. Planning officers and planning committees will look to policy in the first instance to see if a decision should be guided in a particular way, and then balance this against other matters. Governments can give greater weight to some issues over others if they so wish, and promote a national policy consideration on, say, economic growth, or sustainable development, or housing, as a first consideration among many. That policy can be changed by ministers relatively quickly. However, it is not always possible to change local policies to meet the change at the national level as quickly as the minister may wish.

3.3 Local plans take a long time to prepare. Not only is this the result of the task at hand – setting in course a vision and plan for a local area for perhaps the next ten years covering all aspects of land use change and development (itself an ambitious ask) – but it is also framed within statutory controlled set time periods for democratic engagement. So even a change by national level may take a number of years for a local planning authority to adopt a local interpretation of it, dependent on where they are with their own local plan cycle. The law has indicated that changes to national policy are a relevant consideration to take into account by decision makers, even if local policies are not in conformity.

3.4 The result of this means that, occasionally, a local plan is not up to date, compared to national policy. It also means that where this occurs, developers seeking changes through planning application, may suggest that the local plan – as the framework to decide local decisions – is not relevant or up to date for the task at hand. That can act as a weakness for local decision making (the national policy may out-trump the local policy) and even allow appellants in appeal cases to appeal against planning refusals on the grounds that the local policy is irrelevant and out of date. Similarly, the developer – if their

application proposal chimes more with national policy – may find their decision being approved on appeal even if local planning committees have refused the scheme.

3.5 There is a case, therefore, to start to rethink a local planning process that is much more agile to changing circumstance, whether that is social, economic, environmental or infrastructural, for it to perform a useful management role. This issue is being considered in Scotland, England and internationally, where digital planning and data analytics are being harnessed as 21<sup>st</sup> century ways of enacting and managing change in places. This is not a straightforward transition, but one that relies on live data streams of constant by-the-second information (traffic flows, air pollution, utility and transport services) to allow instant decisions. It would also recognize variation and distinctiveness between different parts of Wales, especially as planning embraces more regional forms in the future. It also seems, admittedly, a world away from where most local authorities are at present. But it would also allow communities to access information live as it happens, and actively get involved in local planning.

3.6 In other circumstances, more localized forms of planning – neighbourhood planning or community planning – are being introduced to do with smaller geographies, such as several streets in a built up area or the size of a village. These are creating new ways for the community to shape their own backyards, beyond local government control but in sync with the latter's local plans. These are seen as a way of giving communities much more of a direct say in managing change, not only through controlling new development, but also proactively allowing them to designate sites for new local housing.

#### ***4. The Wellbeing of Future Generations Act***

4.1 A further issue worth considering is enhancing the way community and livability issues are brought into and acted upon by planning more prominently. The Wellbeing of Future Generations (Wales) Act 2015 was a unique approach to give legal standing to the obligation to improve social, cultural, environmental and economic wellbeing. It is therefore to get people to think of long term aspirations while dealing with short term change through overarching sustainable development. The institutional design of programming action from the Act is set out clearly through indicators, milestones and trends. This has also been integrated within national planning, through revised Planning Policy Wales, around issues to do with placemaking.

4.2 At the present time, it appears that there is some uncertainty, even reluctance, on the part of planning professionals to action the sentiments of the Act and the policy at the local level. For us, it is this legislation and policy change, perhaps more so than planning changes per se, that would allow local actors to assess and take decisions based on community wellbeing, resilience, linguistic and cultural change, access to housing, reduce inequalities, and address social cohesion, if there is a political desire to do so. This would have both a regional and local planning dimension with appropriate plans and intelligence bases in place.

4.3 This means collating up to date evidence, developing local indicators on community change, collating all that intelligence as it relates to individual places, and then aligning that to local planning policies and decisions. Having an up to date evidence base is vital. Taking decisions on the back of that would be groundbreaking.

4.4 More work is needed within planning, and by planners, to work out a programme of action towards this use of the Act, and of national planning policy in this regard. A practical guide is needed for planners, but equally it requires planners stepping into the unknown, at least at the outset.

## **5. Comment on Dr Brooks' Recommendations**

5.1 Our final contribution specifically looks at the report of Dr Simon Brooks into second homes in Wales, and which is the subject of the Committee's consideration. Here we outline each of the recommendation in turn, and provide our own response.

*Recommendation 1 – develop regional and local variation in public policy Second homes are primarily a regional and local phenomenon, and the Welsh Government should encourage the development of regional and local policy solutions facilitated by permitting policy variation within a national framework. Public policy solutions should be flexible enough to be applied in different ways in different counties and communities according to regional and local need.*

5.2 We agree that second home pressures are epidemic rather than endemic, locating in areas because of particular amenity and access characteristics. It therefore makes intuitive sense to allow policy variation and formulate locally tailored responses. However, the drivers of second home demand are structural and these can often frustrate local efforts or interact with badly designed policy to deliver unintended consequences. For example, the drivers of second home demand can mean that pressures may be diverted to new locations because of restrictions on purchase / use in a neighbouring locality. This underscores the need for a spatially-consistent approach that increases the cost of second home ownership, and reduces the anticipated financial benefits. This is because although amenity and access influence geographies of demand, second home purchasing is fundamentally financial calculation and decision. Across the UK, households often view housing as a sound investment.

*Recommendation 2 – control of the numbers of second homes. Public policy should aim to ensure stability as regards the numbers of second homes in communities affected by them, or it should aim to reduce their numbers gradually over a number of years.*

5.3 This is a sensible aim. Evidence shows that the social fabric of communities 'frays' when too few young people and families are able to secure affordable homes, either for purchase or rent. It seems clear that communities have a fixed capacity to accommodate second homes and once a tipping point is reached, there are not only diminishing returns from second home investment and use but also a direct harm to that community. It should be remembered that second homes can scaffold house prices and support local spending, but more research needs to be undertaken on when the tipping point is reached and what range of impacts this has on communities, services and economies. The capacity to accommodate second homes will be different in areas with different settlement patterns (e.g. a mix of small and larger centres) and different socio-cultural fragilities. Whilst research into this issue could be useful, we recognize the intrinsic appeal of simply setting a limit of second home numbers.

*Recommendation 3 – the definition of second homes. In order to facilitate policy decisions based on objective information, a better definition of second homes is needed. The Welsh Government could consider several ways of doing this but, with this in mind, a Mandatory Licensing Scheme for Holiday Homes should be introduced.*

5.4 We must ‘nail’ the second home definition in a simple way. Anything built for commercial letting or permitted with a restrictive covenant on length of occupation is patently a ‘holiday let’ and we agree that these should be subject to mandatory licensing. Second homes are drawn from the general housing stock and will not be subject to occupancy covenants. These are for private and non-commercial (letting) use. But we agree that as soon as they are let commercially (e.g., via platform based letting) then they become holiday lets. We agree with recommendation 10, that holiday lets should be a separate use class. Change of use between a dwelling house and commercial holiday let should be subject to planning permission.

*Recommendation 4 – responding to Brexit and Covid-19 In an attempt to mitigate the inevitable effects of Brexit and Covid-19 on the housing market in communities which are heavily impacted by second homes, the Welsh Government should adopt a more proactive approach, and more radical steps should be taken, than would otherwise have been the case.*

5.5 It seems likely that some housing markets are subject to increased counter-urbanisation pressures mid-pandemic. Researchers from UCL are investigating this issue in the Brecon Beacons National Park. Second home buying is likely to be one source of additional market pressure, alongside accelerated retirement plans and permanent migration and home-working. The proactive approach on this issue should begin with further research to establish the relative impacts of different streams of housing demand.

*Recommendation 5 – the need for policy intervention across a range of policy areas Policies should be implemented across a range of policy areas, and in the following three fields in particular: direct planning policies, indirect planning policies and taxation policies.*

5.6 Patterns of housing consumption are rooted in support given to housing markets. Those markets are not free and unfettered. Rather, they are shaped by governments’ preference for taxing work rather than property. This means that we strongly support the use of tax instruments, local and national, to alter consumption outcomes. However, housing consumption plays a critical part in the trajectory of spending and, therefore, of local and national economies. This means that the benefits of increasing tax liabilities need to be weighed against likely effects. There is a significant body of international evidence on this topic. Amongst planning policies for tackling the impacts of housing market pressures, we would include positive interventions in support of community land trusts, registered providers of social housing and local authority direct build. The supply of affordable housing in rural areas will not be increased by restrictions alone. Effort needs to be expended on supporting non-market housing options.

*Recommendation 6 – Local Council Tax Premium County councils that consider second homes to be a serious social problem should use their taxation powers fully, raising the council tax premium on second homes to 100%.*

5.7 We agree with this recommendation. However, Council Tax is part hypothecated land tax and part local service charge. Where a premium on second homes is charged, a third part is created – an impact charge. We believe that there should be greater clarity on the structure and purpose of council tax. It links services used to property-valuations which were last assessed 30 years ago. The Senedd might think about a broader review of council tax, if that is within its gift, to make clear that consumption impacts are being factored into a new local tax – based in a new set of valuations (the problem with a new valuation, however, is that households in high demand areas may see their bills suddenly jump).

*Recommendation 7 – Short-term holiday accommodation and business rates The Welsh Government should consult on the possibility of making short-term holiday accommodation exempt from being eligible for small business rates relief.*

5.8 Whilst we agree with this recommendation, it could be seen as out-of-step with a tightening of licensing and planning rules governing commercial holiday lets. If a real distinction is made between second homes and holiday lets, with planning permission required to create the latter, then logic suggests that owners will be genuinely engaged in a business activity. The question will be then asked as to why businesses operating holiday lets, which are licensed and received specific planning consent are not eligible for business rates relief. It seems to us to be an ‘either/or’ issue: either license and restrict (via planning) or remove rates relief. However, it seems clear that the owners of holiday lets must be liable for either council tax or business rates, and opportunities to avoid both must be removed.

*Recommendation 8 – Land transaction tax. It should be possible to vary the higher rates of the land transaction tax in either counties or local government wards in order to reflect local circumstances. To achieve this: i. The Welsh Government could delegate to county councils a right to vary the higher rates of the land transaction tax, potentially adding a further rate to the tax of up to 4% of the value of the second property in some parts of Wales. ii. Or, the Welsh Government could vary the higher rates of the land transaction tax in this manner in specific local government wards heavily affected by the second homes problem.*

5.9 Land transaction tax (LTT) is one of the levers that appears to impact on housing consumption, although we are not familiar with any research that has examined the impact of the 3% surcharge on second homes. Where there is a need to avoid the negative impacts of reaching a ‘tipping point’ (see comments above), then it may be sensible to vary LTT surcharges. However, patterns of housing consumption scaffold house prices and feed into economic confidence and spending. We therefore suggest that higher surcharges are trialed in areas affected by high levels of second home buying, and the impacts on their housing markets and economies are observed over a fixed period. That research should focus on area effects and displacement effects.

*Recommendation 9 – Gwynedd and Anglesey Councils’ ‘Local Market Housing’ Scheme Gwynedd and Anglesey Councils should consider extending the ‘Local Market Housing’ policy in the Gwynedd and Anglesey Joint Local Development Plan to other coastal and vulnerable communities in both counties where there is a concentration of second homes alongside an affordability problem. Other planning authorities in Wales should scrutinise the ‘Local Market Housing’ policy to consider whether such a policy might be beneficial for some of their communities. The Welsh Government should consider whether planning guidance should be amended or strengthened in order to support or facilitate the process of extending this or similar policies.*

5.10 We note that the report by Dr Brooks contrasts the St Ives H2 policy (full-time occupancy) with the Local Market Housing scheme used in Gwynedd and Anglesey. It points to ‘theoretical’ impacts on the housing market (the transfer of ineligible demand from new builds to existing stock, the reduction in new development activity, and aggregate house price pressure across affected markets) but says that these have not been researched. A similar policy was enacted in the Lake District in the late 1970s and was shown to have the exact effects that Dr Brooks says are theoretical. However, impacts will depend on the geographical extent of their use. Selective use may well limit any externalities. But the same selective use may deter development activity from affected areas and push it elsewhere, nullifying the

benefits. Dr Brooks is right in saying that it is too early to assess the impacts of the St Ives NDP policy, but this is an area fraught with risk. It is also the case that few second home owners look to buy newbuilds (although retiring households and permanent migrants, unaffected by occupancy restrictions may seek a broader range of new and existing property). Second home owners are generally attracted to archetypal cottages, either on secluded plots or close to village amenities. They will be unaffected by restriction, although the *few* that may have wanted newbuild will have to join the queue of buyers looking for existing homes. We agree that the existing stock is the focus of second home buying. In relation to new build, local authorities and the Senedd need to be supporting positive action in the form of non-market affordable housing solutions. In relation to existing stock, there is a case for restricting change of use.

*Recommendation 10 – the creation of a new use class for short-term holiday accommodation The Welsh Government should amend the Town and Country Planning (Use Classes) (Amendment) (Wales) Order 2016 by introducing a new use class for short-term holiday accommodation.*

5.11 We agree that this would be a sensible move. Restricting changes of use to commercial letting seems both reasonable and potentially enforceable. The distinction between private and commercial use seems sufficiently clear. Turning homes into businesses is a process that should be regulated by local planning (and vice versa). However, once turned into businesses and officially designated as such, the owners of commercial holiday lets should enjoy the same business rate relief benefits as other small business owners. Enjoyment of that benefit is part of the clear distinction between having a dwelling house (subject to Council Tax) and a commercial let (subject business rates).

*Recommendation 11 – trialing a new use class for second homes The Welsh Government should conduct a trial in a community or cluster of communities severely impacted by second homes, and where there is community support for doing so, to evaluate the feasibility and impact of introducing a new use class for second homes. This would make the conversion of a dwelling house into a second home subject to planning permission when the percentage of second homes in the housing stock of a specified community crosses a particular threshold.*

5.12 This is a very fundamental change that would severely curtail the enjoyment of private property. There is of course the persuasive argument that private benefit/enjoyment should not generate public harm, and that second homes in high numbers clearly disrupt and may ultimately destroy the socio-cultural fabric of communities. But while it seems reasonable to draw a distinction between private use and commercial letting (in recommendation 10), distinguishing between different patterns of private use is, our view, something that could be extremely difficult and expensive to enforce. It is also the case that it would fundamentally disrupt the extant pattern of housing use and consumption. Selected trials would be controversial and could affect (very severely) a small number of homeowners, who might see a significant fall in stored equity, trapping them in their homes or in negative equity. Broader trials are likely to harm consumer confidence as land values fall in anticipation of resale or remortgage difficulties. Targeting of a clearly disruptive form of use change – dwelling house to commercial let – is reasonable not only because of social impact but because of the immediate neighbour impact that this change of use may produce. But the jump to a general restriction on the use of ‘dwelling houses’ across the market could have very profound effects on existing homeowners, the majority of whom will be local owners, and on local economies.

*Recommendation 12 – establish a Commission to make recommendations regarding the future of the Welsh language as a community language. The Welsh Government should establish a Commission to make recommendations in response to the linguistic challenges facing areas where the Welsh language is currently a community language in the face of likely socio-economic and social restructuring. In particular, the Commission should address the challenges of the post-Brexit and post-Covid environment with the aim of protecting, stabilising and nurturing the future of the Welsh language as a community language in Wales.*

5.13 New change drivers, including those listed above, are likely to present communities with a range of challenges. We support the need for additional evidence gathering.

## **6. Finally**

6.1 We would be happy to take questions from the Committee about these issues and respond appropriately in our evidence.

**Nick Gallent, UCL**

**Mark Tewdwr-Jones, UCL**

**9 November 2021**