

**ASSC RESPONSE TO HIGHLAND COUNCIL SHORT-TERM LET CONTROL AREA
CONSULTATION**

Do you agree with the proposal to establish a Short Term Let Control Area for Badenoch and Strathspey (Ward 20)?

Yes **No** Not Sure

Please give details:

The Association of Scotland's Self-Caterers (ASSC) welcomes the opportunity to provide evidence to Highland Council's consultation on their proposal to designate a Short Term Let Control Area for Badenoch and Strathspey. Founded in 1978, the ASSC are the leading source of knowledge on short-term letting and holiday homes in Scotland and are the only trade body representing the interests of the traditional self-catering sector. We represent over 1300 Members, operating tens of thousands of self-catering properties throughout Scotland, from city centre apartments to rural cottages, to lodges and chalets, to castles, all of whom generate £867m per year for the Scottish economy. The ASSC commits its members to maintaining the principles of "*quality, integrity, cleanliness, comfort, courtesy and efficiency*" and to offering visitors to Scotland consistently high standards within their self-catering properties.

As the main trade association for the self-catering sector in Scotland, we hope that our expertise and insight can help inform any regulations taken forward. We have always strived to work collaboratively with both local and national government stakeholders to ensure a balanced and proportionate outcome for all; and this is what we intend to do with Highland Council. From the outset, we wish to make clear that the ASSC is not averse to regulation; but we do challenge policies that are pursued while lacking a firm evidence base which will damage the livelihoods of our members. In fact, the ASSC supports Control Areas in places where there is a demonstrable, evidence-based link between short-term lets and loss of housing stock, and robust evidence that reducing the capacity of short-term lets will directly benefit the availability of housing. However, as our consultation submission shows, the Council has singularly failed to provide that.

In terms of background, self-catering properties have been a longstanding presence in communities for generations, especially in rural communities, and provide an economic boost for local areas and enhance Scotland's tourist accommodation offering. Such self-catering properties are legitimate, bona fide businesses whose owners depend on the money generated for their livelihood – it is not a hobby or a way to supplement their income. This is entirely separate from the 'homesharing' concept, or those amateur

operators who utilise online marketing platforms but are not subject to the same levels of existing regulation.

Following the devastating effects of Covid-19 on the short-term letting sector, as well as the fragile recovery from the pandemic, not to mention the looming imposition of a heavy-handed, disproportionate licensing scheme from the Scottish Government, the prospect of a Short Term Let Control Area in Badenoch and Strathspey comes at the worst possible time for self-catering operators. Given the importance of ensuring a sustainable recovery, and the significance of this measure for the livelihoods of our members in this ward, we cannot support this proposal as it lacks a firm evidence base, will entail a negative material impact for small businesses in the ward and Highland Council, and will not achieve the policy intentions. Small businesses like self-catering, present in communities for decades, should not be used as a convenient scapegoat for wider failures in housing policy.

Throughout the background documentation, as well as the Statement of Reasons, there is a real lack of evidence of the impact of short-term lets on housing supply, which is clearly a relevant consideration for Highland Council in advancing this proposal. The background documentation to the consultation and proposal itself fails to provide empirical data to show a link between short-term letting and the housing market in the ward. This underlines the fundamentally flawed nature of the proposal and why it needs to be urgently reconsidered.

Do you agree with The Highland Council Statement of Reason?

Yes **No**

Please give details:

Self-catering is immensely important to the Highland economy, including in Badenoch and Strathspey. For a policy that will have such major ramifications for operators in this ward, a Statement of Reasons amounting to little more than a single sheet of A4 is deeply concerning and demonstrates the lack of an evidence base underpinning the proposals.

Taking each of the bullets on p2 of Highland Council's Statement of Reason in turn:

"Qualitative evidence highlights that local people struggle to be able to access or afford to buy or rent housing in their local area."

"Qualitative evidence highlights that businesses are struggling to attract staff due to the limited availability of housing to let or buy."

“In 2018, (latest data available) house prices in Badenoch and Strathspey were on average £42,600 higher than Highland average and £42,756 higher than Scotland average (Statistics.gov.scot).”

Housing challenges in Badenoch and Strathspey, Highland Council as a whole, or indeed Scotland, are multifaceted and complex; but short-term lets are often presented as being the leading cause of this. Yet there is no baseline data on which to evidence a link between short-term letting and loss of housing stock or increasing house prices in either Scotland or within the Highlands. Such assumptions are based on anecdote and narrative. The Council therefore needs to take a much more holistic approach to housing problems in the ward.

Nonetheless, even if self-catering businesses were forced to close due to rejected planning applications, the Council needs to consider whether such properties could actually be deemed as ‘affordable housing’ which local people could easily obtain. One unintended consequence could be an increase in second homes purchased by those outwith the locality – which offers no material benefit to the area – rather than self-catering which benefits local economies through guest spend and footfall in other businesses like hospitality. There is also no guarantee that an owner will either sell the property or make it available on the long-term rental market; they could let it lie empty or use their property as a second home, something which would only benefit the individual owner while damaging the tourism economy in the process. This has not been considered by the Council.

Furthermore, in relation to difficulties regarding rental costs and availability, the Private Housing (Tenancies) (Scotland) 2016 Act granted Scottish councils the power to ask Scottish Ministers to designate a Rent Pressure Zone (RPZ). To date, no Scottish council, including Highland Council, has made an application for a RPZ which would limit rental increases for tenants with private residential tenancies.

“Over 17% of potential housing stock has been lost to ‘tourist’ accommodation in Badenoch & Strathspey (calculated on Non-Domestic Rates Self-Catering Units and Council Tax Second Homes within the Badenoch and Strathspey Housing Market Area [HMA]).”

Self-catering units and second homes are two distinct categories of property and should not be conflated. Second homes cannot be in any way described as ‘tourist’ accommodation.

Figures provided by the Council highlight that there were 666 self-catering properties on NDR in Badenoch and Strathspey. However, this is lower than the 726 second homes in the area. Additionally, there are also 327 empty homes which could be put towards more beneficial use.

“The Council Housing Waiting List for Badenoch and Strathspey HMA area has increased by 40% in the past 5 years. This is considerably higher than across the rest of Highland.”

The solution to this issue is to build more council houses in Badenoch and Strathspey, as well as the rest of the Highland Council area, rather than seeking to solve housing challenges through damaging the tourist accommodation sector. Moreover, the fact that increases to the Council House Waiting List in Badenoch and Strathspey cannot be directly attributed to the existence of short-term lets is recognised in the Council’s paper for the Economy and Infrastructure Committee of 2 December 2021, which note that this increase *“is probably again due to several reasons.”* However, these reasons are not explained at all, showing the narrow focus and limited evidence backing up the proposal.

“Cairngorms National Park Local Development Plan 2021 has increased the affordable housing requirement for new developments to 45% in Aviemore to deal with the loss of housing to secondary letting and rising house prices related to it.”

The ASSC supports moves to increase the number of affordable homes in this ward and elsewhere in the Highland Council area. However, as previously stated, there is no empirical link between short-term lets and housing supply in Scotland.

In addition to increased housebuilding, more has to be done to tackle the number of empty homes in Badenoch and Strathspey and in the Highlands. Indeed, according to the Economy and Infrastructure Committee meeting papers of 2 December 2021, there has been a significant increase (36%) in the number of empty homes in the ward. However, as the report goes on to note, *“no investigation has been undertaken into the causes of this rise.”* Rather than targeting legitimate professional businesses who benefit the local area, a more immediate priority should be focusing on reducing the large number of empty homes so they can be utilised for far more productive purposes and provide homes for those who need.

“Intensity of Short Term Lets has disproportionately affected the amenity of several communities across Badenoch & Strathspey.”

There is no evidence base to support this assertion.

“Supports the Scottish Government’s repopulation agenda by helping to ensure the availability of residential properties for full time residential use.”

The ASSC supports thriving communities and the noble aim underpinning the Scottish Government’s repopulation agenda. However, this will not be achieved through discriminating against a key component of Scotland’s tourism economy and using short-term lets as a convenient scapegoat to mask wider policy failures associated with housing.

Do you have any concerns over the establishment of a Short Term Let Control Area for Badenoch and Strathspey?

Yes No Not Sure

Please give details:

The ASSC wants to ensure a balanced and proportionate approach for business, tourism and local communities and get a regulatory framework in place that works for all. However, the proposals as drafted do not strike the appropriate balance and will lead to the closure of many small businesses in the ward without achieving the apparent policy objectives.

Overall, we have three main concerns relating to the establishment of a Short-Term Let Control Area in Badenoch and Strathspey: (i) the lack of a robust evidence base; (ii) the impact on small businesses; and (iii) the impact on Highland Council.

- (i) Lack of a robust evidence base

The paucity of evidence offered to support this Control Area is stark. This is exemplified by the Economy and Infrastructure Committee meeting papers of 2 December 2021 on the control area plans, which were supposedly meant to provide a “*detailed report*” (according to the Statement of Reasons, p2), but actually cautions that “*the following data should not be considered to be entirely accurate or robust.*” Those two comments clearly do not equate. Moreover, we are also concerned at comments like “*anecdotal local evidence does show concern being brought to Member’s attention*” – anecdote, rather than facts, can never be a sound basis for public policy.

Officer attempts to determine the number of short-term lets using just two online platforms – Airbnb and Booking.com – also demonstrates the absence of adequate data, a fact again recognised by the aforesaid meeting papers: “*given the very nature of the websites reviewed and the method of extraction, the number of STL fluctuates daily as ‘hosts’ add or remove their properties; corollary the total number should be considered as a ‘snapshot’ of STL available in Ward 20 in October rather than a definitive figure.*”

The meeting papers also state that the Council holds no historical data on the number of short-term lets on those two platforms and that “*work is ongoing to identify if we can purchase this data from external sources to allow the review of trends across this data*

stream to be made.” It is not clear whether the Council has obtained this data prior to the launch of the consultation and what form it takes. In order for a fully informed discussion, this should have been available at the time of the consultation process. Nonetheless, if these “*external sources*” transpire to be so-called scraped data obtained from sites such as AirDNA, this will not provide the empirical data required. Scraped data, based on inaccurate information and flawed methodologies, can lead to misleading conclusions about the nature of the short-term letting landscape.

As context, it is important to remember that the number of listings on online platforms in any given area is not necessarily an indication of impact on long-term housing. For example: (a) many of these properties are already the primary residences of individuals involved in ‘homesharing’ who share a room(s), or their entire home while away; (b) each listing does not represent a single housing unit. A property can have multiple listings; and (c) marketing platforms like Airbnb contain a diverse range of accommodation including hotels and B&Bs, as well as unconventional accommodation like yurts, barns, boats, and campervans and one train, which cannot be seen as housing stock.

Furthermore, properties can also be advertised across multiple platforms, be it Airbnb, Expedia or Booking.com, in addition to an operator’s own website – referred to as ‘cross-listing’ – creating the mistaken perception that there are more properties available for short-term let than there actually are. Properties can be listed multiple times on one or many platforms. Whole homes or single rooms in the same house often appear on more than one platform.

(ii) Impact on businesses

Given the consequences for jobs and livelihoods, the lack of a robust evidence base is alarming and shows a casual disregard for those who have dedicated their working lives to welcome guests and visitors to the area. Moreover, the timing of this proposal could not be more inopportune and Highland Council ought to consider the impact on an already beleaguered and challenged self-catering industry hit by Covid-19, as well as the prospect of an expensive licensing scheme (the latter of which is currently opposed by the Council).

A considerable proportion of short-term lets in the ward will likely be forced out of the market by inevitable planning refusal, limiting sources of supply, and significantly restricting the choice of accommodation. This will damage the area’s position as a tourism destination and goes against wider consumer trends towards self-catering accommodation rather than hotel chains. Self-catering boosts the Highland and Western Isles economy by £211m per annum according to Frontline Consultants, something which would be jeopardised by these proposals.

It should not be overlooked that traditional short-term letting activity, such as self-catering, is a small business like any other, with dedicated full-time professionals striving to provide positive experiences for guests and visitors. Given the competition to maintain standards, holiday let owners often spend money more frequently on additional property maintenance than they would on their own property. Their guests spend money in local food shops, cafes, gift shops, restaurants, tourist attractions etc – many of which would simply be unviable without visitor spending.

With that in mind, the impact of a Control Area with the aim of reducing the number of properties, will not be limited to self-catering and short-term letting overall as there will be a significant negative impact to businesses in the wider supply chain. This emphasises the value that short-term letting provides to the wider economy (especially within the context of Covid recovery) from the operators themselves, with negative knock-on effects on hospitality, local activity providers and local attractions. There will also be a negative impact on laundry providers and cleaning services and guests, not to mention property managers, maintenance providers and the onward tech supply chain.

(iii) Impact on Highland Council

It is not just self-caterers and other local businesses who will be adversely affected – there will be consequences for Highland Council itself, a fact again recognised by the aforementioned meeting papers from 2 December 2021: *“In the longer term, the ongoing need to consider and determine STL planning applications will have an ongoing pressure on performance, staffing and budgets”* and it later estimates that it could result in a *“threefold increase in workload for the Badenoch and Strathspey area and would represent a 20% increase in workload across Highland.”*

The proposals will therefore pose significant resourcing implications for Highland Council – and perhaps an impact on existing service delivery. The ASSC believes the Council needs to undertake an economic impact assessment in terms of costs of introducing a Control Area in Badenoch and Strathspey. At a time when there are severe constraints on local government finance, additional burdens will be placed on the planning team to manage the requirements of the Control Area. The Financial Memorandum for the Planning (Scotland) Bill estimated that the cost to planning authorities of additional applications resulting from short-term lets would be between £358,207 and £2.7m per year. Given that this was prepared in 2017, the costs may have increased further.[1]

Moreover, research carried out by the Royal Town Planning Institute (RTPI) in connection with the implementation of the Planning (Scotland) Act 2019 estimated the costs of a planning authority designating all or part of its area as a short-term let control area between £640,710 (lower estimate) and £14,756,800 (higher estimate). [2] The RTPI also commented

that the “increase in demand for planners comes at a time when there is a diminishing resource base with planning authorities’ budgets decreased in real terms by 40.8% and staff numbers cut by 25.7% since 2009.” [3] Likewise, the Law Society of Scotland warned that local authorities may not be ready from a resourcing perspective: “There are unlikely to be resources in place at present in local authority licensing or planning departments to cover such additional and in certain areas, extensive work.” [4]

The figures from planning and legal stakeholders should be read against the financial backdrop facing Highland Council. The Medium-Term Financial Plan-Update outlined a £50m budget deficit in 2022/23, rising to £124m in 2026/27. This does not include the financial burden of short-term let licensing or planning control areas.

[1] Scottish Parliament, *Planning (Scotland) Bill. Revised Financial Memorandum* (2019).

Url: [https://archive2021.parliament.scot/S5_Bills/Planning%20\(Scotland\)%20Bill/SPBill23AFMS052019.pdf](https://archive2021.parliament.scot/S5_Bills/Planning%20(Scotland)%20Bill/SPBill23AFMS052019.pdf)

[2] Royal Town Planning Institute, *Financial Implications of Implementing the Planning (Scotland) Act 2019* (2019), p10. Url: <https://www.rtpi.org.uk/media/1211/rtpi-scotland-financialimplications-of-implementing-the-planning-scotland-act-2019.pdf>

[3] Royal Town Planning Institute, ‘Short Term Lets: RTPi Scotland’s response to the Scottish Government’s Consultation on a licensing scheme and planning control areas in Scotland’, 06/10/20. Url: <https://www.rtpi.org.uk/consultations/2020/october/short-term-lets/>

[4] Law Society of Scotland, *Consultation Response: Short-Term Lets* (2019), p13.

Url: <https://www.lawscot.org.uk/media/363183/19-07-19-plan-lic-short-termlets.pdf>

What advantages do you consider establishing a Short Term Let Control Area for Badenoch and Strathspey will bring to the area?

Under the current proposals, and further to the arguments made in the previous questions, we do not believe there are any advantages for establishing a Short Term Let Control Area for Badenoch and Strathspey. The Control Area will merely entail negative consequences – be it damaging the region’s economic recovery, risking jobs and livelihoods for no material benefit, and it will not ameliorate housing concerns in the ward.

Policymakers should not use holiday accommodation as a means to solve housing challenges, instead focusing on building more affordable homes and tackling the scourge of empty properties. Any short-term let regulations taken forward need to be informed by robust empirical data which is conspicuously absent from the documents provided by Highland Council. We would therefore implore elected members to reassess these plans.