

ASSC Draft Response to East Lothian Council's Short-Term Let Engagement Exercise

Question 1

Are you an East Lothian resident?

Yes No

If you answered yes above, please can you tell us if you are:

- A homeowner Renting privately Living in an East Lothian Council or Housing Association property Living in housing for elderly people (e.g. sheltered or care accommodation) Other

Question 2

Before undertaking this survey, were you aware that, of all residential properties in East Lothian, there are currently around 500 operational as Short Term Lets?

Yes No Unsure

If you answered yes above, please can you provide more detail to support your answer. This could include how you become aware of Short Term Lets in East Lothian. Was it through word of mouth, internet searches or social media, signage on buildings, changes observed in your local area, or through operating a Short Term Let property or facility?

We have answered 'unsure' as the Council's paper only uses data on listings from two accommodation platforms – VRBO and Airbnb. As the paper further notes, the figures are "approximate" and can "only be used as a guide." If the Council was seeking to take forward regulatory changes, it would need to utilise far more robust data than a search of listings from two accommodation platforms alone, including non-domestic rates figures. We would also caution against using data taken from third-party websites (the reference list in the Council's paper cites AirDNA). Scraped data is based on inaccurate information and flawed methodologies which can lead to misleading conclusions about the nature of the short-term letting landscape.

It is necessary to place this discussion in a bit more context. It should be remembered that listings on online platforms do not necessarily equate to the number of houses that would be available on the long-term housing market. For example, each listing does not represent a single housing unit as a property can have multiple listings. There is also a diverse range of accommodation available on platforms – a cursory search of the properties available on Airbnb in East Lothian includes castles, stables, guest houses, chalets, cabins, caravans, yurts, farm stays, bothies, garden flats, outhouses, and private rooms within permanent residences of homeowners. None of these listings would have any impact on solving housing challenges if the owner was no longer able to utilise them for short-term letting due to changes in planning regulations.

Moreover, there should be a differentiation between legitimate small businesses, such as self-catering, and casual amateur hosts, who utilise online marketing platforms but are not subject to the same levels of existing regulation as professionals. Of course, those engaged in 'homesharing' – that

is, sharing their primary residence or a room(s) within it – are exempt from the control area regulations. It is not clear how many the 572 listings would fall under the ‘homesharing’ bracket.

Finally, rather than simply placing the number of short-term lets against the total number of properties, any analysis must be more holistic in nature, identifying the numbers of empty homes and second homes within East Lothian – which unlike self-catering – provide no material benefit to communities within the local authority area.

Question 3

Do you own or manage a Short Term Let property or facility in East Lothian?

Yes **No** Other (please specify)

Other (please specify)

If you answered yes above, is your property or facility:

A whole property A single room within a flat or house A larger facility (e.g. glamping site or multiple accommodation types)

Please can you explain your main reason for owning or operating a Short Term Let property or facility in East Lothian?

I use it as an additional income stream I have a local connection to East Lothian and personally live in the property or nearby I operate it as a long term investment I am (or work for) a professional Short Term Let provider Other

Are you considering opening a new or additional Short Term Let facility in East Lothian?

Yes **No** N/A

If you answered yes above, in which location would this be?

Musselburgh Gullane North Berwick Haddington Dunbar Other (please specify)

Do you own or operate any long term let property or facility in East Lothian, such as a private residential tenancy?

Yes No **N/A**

Please can you provide more details on any long term property investment:

Question 4

Have you ever stayed in a Short Term Let property within East Lothian? Typically these are booked through websites such as AirBnB or Vrbo.

Yes No

If you answered yes above, please tell us the main reason for your stay (select all that apply):

Holiday For a particular experience (e.g. off-grid living, hutting, coastal etc.) Visiting family or friends Attending a private event (e.g. wedding, christening etc.) Attending a work conference or meeting Other

How would you rate the following aspects of your stay:

	Poor	Fair	Good	Very Good	Excellent
Accessibility (e.g. wheelchair access, lifts)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Cleanliness	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Facilities in the local area	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Neighbours	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Noise	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Litter	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Question 5

Do you think that Short Term Let properties are having an overall positive, negative or neutral impact on East Lothian?

Positive Negative Neutral

Please explain your answer in the box below:

The ASSC believes that short-term lets provide a positive impact on East Lothian, bringing a number of economic, social, and cultural benefits – and generates employment and economic activity in our rural areas in particular, which then brings wider societal benefits. In terms of Scotland as a whole, self-catering generates a £867m per annum boost to the Scottish economy, benefiting local communities the length and breadth of Scotland, supporting 23,979 FTE jobs.

Self-catering is one of the more sustainable holiday sectors with businesses supporting communities through local visitor spend and through business sourcing local tradesmen and suppliers. Rather than hollowing out communities, self-catering units support them and retain the visitor pound in the local economy in East Lothian, demonstrating community sustainability. Self-catering units can also

help to disperse guests and are available in areas that are not often well-served by hotel chains, thereby spreading the economic benefits even wider. As academic studies have shown, there are “clear economic benefits” for areas containing short-term lets, and the type of tourist staying in such accommodation “has a high annual spend relative to other tourists and much of this expenditure seems to be concentrated in the local area. This may facilitate the development of tourism areas into less seasonal and more sustainable areas. These findings need to be incorporated into the broader debate which criticizes holiday home tourists as creating ‘ghost towns’ and re-constructing the social fabric of local villages.”

Guests in self-catering units spend money in local food shops, cafes, gift shops, galleries, restaurants, tourist attractions etc – many of which would simply be unviable without visitor spending. Therefore, the impact of control areas devised 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, and the onward tech supply chain.

As the Council’s note accompanying the Engagement Exercise summaries, short-term lets enhance the diversity of accommodation available for guests, can provide additional incomes for residents, and such properties benefit the region when it hosts large sporting and cultural events like the Open, Scottish Half Marathon, Fringe by the Sea, and Harbours Arts Festival. A reduction in the number of short-term lets in East Lothian, brought about by excessive or restrictive regulations, would inhibit East Lothian’s continued ability to host such prestigious events. The availability of properties in East Lothian can also help with any overspill from the main Festivals held in Edinburgh, allowing the benefits of such events to be spread to small business owners in East Lothian.

With that in mind, the Council should back small businesses by encouraging self-catering as a sustainable option for domestic/international visitors alike so that it can continue its economic boost to local communities and contribute to our country’s diverse, authentic and welcoming tourism offering.

To what extent do you think Short Term Let properties have an impact on the following:

	High	Medium	Low	None
The look and feel of the area	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Amenity issues such as noise, litter or antisocial behaviour	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

	High	Medium	Low	None
Availability and choice of suitable or affordable housing for local residents	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Local services (e.g. schools, shops, professional services such as solicitors) closing or relocating due to lack of demand/customers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Please provide more information in the box below to explain your answers

“The look and feel of the area”: While we have answered ‘none’ for this question, short-term lets can have a positive impact on the look and feel of an area. Professional operators have an incentive to keep their properties well maintained which benefits the aesthetics of an area. 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.

“Amenity issues such as noise, litter or antisocial behaviour”: incidents of anti-social behaviour in self-catering units in both Scotland and East Lothian are minimal, with the latter recognised by the Council. When issues do arise, local councils already have anti-social behaviour powers (for instance, the Antisocial Behaviour Notices (Houses Used for Holiday Purposes) (Scotland) Order 2011) they can utilise to deal with such issues but these need to be properly enforced.

“Availability and choice of suitable or affordable housing for local residents”: There is no empirical evidence in East Lothian or elsewhere in Scotland which demonstrates a link between short-term lets and the housing market.

“Local services (e.g. schools, shops, professional services such as solicitors) closing or relocating due to lack of demand/customers”: Again, there is no evidence base to suggest an adverse effect on local services from the existence of short-term lets. However, there is a wealth of data to show the economic benefits of such tourism accommodation in terms of guest spend in local businesses, such as the economic impact studies of self-catering produced by Frontline Consultants.

Question 6 (Musselburgh)

The following questions look specifically at Short Term Lets in five main towns in East Lothian with the highest concentrations of properties currently operating. If you do not wish to provide any information on a specific settlement, you can skip to the next question.

Please note that the red settlement boundaries have been drawn only for the purposes of this consultation. Additionally, the figures for the numbers and percentages of Short Term Lets in each settlement are approximate, and should only be taken as indicative at this stage.

Currently, there are approximately 43 Short Term Let properties within Musselburgh as a whole. This accounts for approximately 0.3% of all properties. There are approximately 7 Short Term Let properties in the Town Centre. This accounts for approximately 0.85% of all properties in the town centre.

If you would like to provide any comments on Short Term Lets in Musselburgh, please use the box below:

The data provided by East Lothian Council for Musselburgh shows that short-term lets are a tiny minority of the total number of properties in the area.

Question 7 (Gullane)

Please note that the red settlement boundaries have been drawn only for the purposes of this consultation. Additionally, the figures for the numbers and percentages of Short Term Lets in each settlement are approximate, and should only be taken as indicative at this stage.

Currently, there are approximately 45 Short Term Let properties within Gullane as a whole. This accounts for approximately 2.94% of all properties. There are approximately 12 Short Term Lets in the Local Centre. This accounts for approximately 15% of all properties in the Local Centre.

If you would like to provide any comments on Short Term Lets in Gullane, please use the box below:

The data provided by East Lothian Council for Gullane shows that short-term lets are a tiny minority of the total number of properties in the area.

Question 8 (North Berwick)

Please note that the red settlement boundaries have been drawn only for the purposes of this consultation. Additionally, the figures for the numbers and percentages of Short Term Lets in each settlement are approximate, and should only be taken as indicative at this stage.

Currently, there are approximately 153 Short Term Let properties within North Berwick as a whole. This accounts for approximately 3.59% of all properties. There are approximately 50 Short Term Lets in the Town Centre. This accounts for approximately 16% of all properties in the town centre.

If you would like to provide any comments on Short Term Lets in North Berwick, please use the box below:

While the data from East Lothian Council for North Berwick is higher than the other areas mentioned in this consultation, it still forms a relatively small proportion of the total number of properties overall. It is important to view this holistically, not only against the total number of properties, but also in regard to the number of second homes and empty homes which unlike tourist accommodation provide no material benefit to local communities.

Question 9 (Dunbar)

Please note that the red settlement boundaries have been drawn only for the purposes of this consultation. Additionally, the figures for the numbers and percentages of Short Term Lets in each settlement are approximate, and should only be taken as indicative at this stage.

Currently, there are approximately 42 Short Term Let properties within Dunbar as a whole. This accounts for approximately 0.37% of all properties. There are approximately 18 Short Term Lets in the Town Centre. This accounts for approximately 3.7% of all properties in the town centre.

If you would like to provide any comments on Short Term Lets in Dunbar, please use the box below:

The data provided by East Lothian Council for Dunbar shows that short-term lets are a tiny minority of the total number of properties in the area.

Question 10 (Haddington)

Please note that the red settlement boundaries have been drawn only for the purposes of this consultation. Additionally, the figures for the numbers and percentages of Short Term Lets in each settlement are approximate, and should only be taken as indicative at this stage.

Currently, there are approximately 20 Short Term Let properties within Haddington as a whole. This accounts for approximately 0.37% of all properties. There are approximately 6 Short Term Lets in the Town Centre. This accounts for approximately 1.2% of all properties in the town centre.

If you would like to provide any comments on Short Term Lets in Haddington, please use the box below:

The data provided by East Lothian Council for Haddington shows that short-term lets are a tiny minority of the total number of properties in the area.

Question 11

Do you think it is necessary to introduce Control Areas for Short Term Lets in East Lothian?

Yes **No** Not sure

What areas do you think one or more Control Areas may be needed?

(Required) Town Centres and Local Centres Settlement wide Area Partnership areas
 All of East Lothian Other **I don't think Control Areas are required**

Please provide more information in the box below to explain your answers above:

The ASSC opposes control areas for East Lothian but wishes to put this stance in context, setting out our responsible and proactive regulatory position. First and foremost, 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 and Scotland's vital tourism industry. Overall, we want to ensure a balanced and proportionate approach for business, tourism and local communities and get a regulatory framework in place that works for all. We will work constructively with all stakeholders, including East Lothian Council, to achieve this crucial objective.

Moreover, we proactively worked with MSPs and the Scottish Government on the short-term let provisions in the Scottish Government's Planning (Scotland) Act during the Bill's passage through the Scottish Parliament which will now enable local councils to introduce Control Areas subject to satisfying certain conditions and achieving Ministerial approval. The introduction of Control Areas, in areas of housing stock pressure with a demonstrable link with short-term lets, is in line with the ASSC's Long-Term Approach to Short-Term Letting Policy, published back in February 2019. This underlines the fact that the industry is in fact supportive of regulations when they are targeted, proportionate and balanced.

However, we believe that there is no evidential basis to pursue control areas in East Lothian Council at the present time. Any proposal to take this forward must present a firm, reliable and robust evidence base to justify it. If the aim is to control the number of short-term lets due to pressures on housing stock, the ASSC maintains that this has to be properly evidenced using robust data and not rely on anecdote or unreliable 'scrapings' of data using third-party websites. In addition, the Council would also have to be clear with its policy intention – if it is about housing, how would they assess the ultimate success of their short-term letting policy and what would be the key performance indicators?

The ASSC have previously argued that there is a lack of data showing an empirical link between short-term lets and housing shortages and that a more holistic approach needs to be taken to the issue. Housing challenges are multifaceted and the growth of short-term lets should not be used as a convenient scapegoat for wider policy failures; namely the failure to build more homes or bring empty homes back into use. Thus far, no evidence has been published in Scotland that demonstrates a concrete link between short-term letting and the Scottish housing supply.

We should be mindful of the unintended consequences of using tourist accommodation to ameliorate housing pressures and increase affordable housing to rent or buy. If self-catering businesses were forced to close due to rejected planning applications under a control area, the Council would need 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.

In terms of the existing evidence, on the basis of the note provided by the Council to accompany the Engagement Exercise:

- The paper recognises that “the majority of Short Term Lettings operate without any issues”;
- It shows that short-term lets only form a small proportion of the total number of properties in East Lothian and in the five towns highlighted in the paper;
- On complaints relating to litter, noise and/or anti-social behaviour, it states that “there is little evidence at the moment to show that short-term let properties are causing these problems”, with only two complaints being received by East Lothian Council between January 2018 and October 2021 relating to STLs; and
- Finally, on residential/community amenity, it acknowledges that “it is not considered to be a significant issue in East Lothian at the moment”.

This suggests that the introduction of a control area(s) is unnecessary and would wholly disproportionate to any perceived problems associated with short-term lets in East Lothian.

It wouldn't just be small business owners and local business owners who could be adversely affected by control areas – a regulatory change of this nature would pose significant resourcing implications for East Lothian Council which will need to be properly assessed. The ASSC have engaged East Lothian Council representatives on the separate issue of short-term let licensing who confirmed to us that:

“In particular, we are wrestling with the issue of how the costs of establishing the licensing scheme can be met while we continue to operate in this challenging financial environment. As you have also highlighted, the fee levels for applicants need to reflect the cost of administering the scheme, but, until we have more information regarding this matter and an idea of the number of applications we might expect, we are unable to give any robust estimate of likely fee levels. This is administratively difficult for the Council but potentially much more problematic for owners of short term let properties, who need to make decisions about the future operation and commercial viability of their properties. Whilst we acknowledge that some areas have suffered difficulties as a result of unregulated short term lets, we are particularly anxious to avoid compromising the valued and valuable tourism sector in East Lothian through implementation of a ‘heavy handed’ and, thus, expensive, licensing scheme to no real benefit.”

Having to grapple with a burdensome mandatory licensing scheme is onerous enough without adding to this with planning control areas. Therefore, the ASSC believes the Council must undertake an economic impact assessment if they intend to introduce control areas. Furthermore, at a time when there are severe constraints on local government finance, additional burdens will be placed on planning teams to manage the requirements of any control areas. With the absence of any estimations in the Council's note, 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.

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). 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.” 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.*”

Overall, coupled with the mandatory licensing scheme introduced by the Scottish Government, a control area(s) could not come at a more inopportune moment for the self-catering industry which is still trying to recover from the devastating impact of Covid-19 on the tourism sector. The cumulative impact of this would entail a negative impact for operators, potential visitors and the local economy that tourism supports. Indeed, it comes at a time where our tourism industry should be supported by local and national government for a sustainable recovery, especially when so many businesses remain in survival mode.

In conclusion, tourism is a mainstay of the Scottish economy; and self-catering is hugely important to Scottish tourism in terms of jobs, revenue, and world-class experiences offered to guests – including in East Lothian. To be such an essential part of Scotland’s tourism mix is even more remarkable for our sector when most self-caterers operate small or micro businesses. The recovery of Scottish tourism will benefit small businesses, while responsible and sustainable tourism can help communities to recover too. East Lothian Council needs to play its part by helping small businesses like self-catering ensure a sustainable recovery by providing a supportive environment and not progressing with a control area(s).

References

The ASSC have drawn upon the following sources for its submission and hope that the Council finds them useful for informing their view on the possible introduction of a control area. We would be happy to meet with Council representatives to discuss this in further detail.

- ASSC, *Far More Than Just Houses: The Benefits of Short-Term Rental in Scotland* (2018).
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- ASSC, *Housing and Short-Term Lets in Scotland: The Facts* (2021). Url: <https://www.assc.co.uk/policy/housing-and-short-term-lets-in-scotland-the-facts>
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- Mottiar, Z, 'Holiday Home Owners: a Route to Sustainable Tourism Development: an Economic Analysis of Tourist Expenditure', *Data. Journal of Sustainable Tourism*, Vol. 14, no.6, pp.582-600.