

REPORT



Report on: Short term let control zones

Prepared for: The Association of Scotland's Self-Caterers (ASSC)

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1 There is a new power for planning authorities to designate short-term let control areas. In a short-term let control area, the use of a dwellinghouse for the purpose of providing short-term lets is deemed to involve a material change of use and therefore requires planning permission.

[Town and Country Planning (Scotland) Act 1997 section 26B, inserted by Planning (Scotland) Act 2019; Town and Country Planning (Short-term Let Control Areas) (Scotland) Regulations 2021]

2 According to the Scottish Ministers:

"Where the change of a dwellinghouse to a short-term let took place before the designation of the control area the existing rules will apply. These require planning permission for a change of use of property where that change is a material change in the use of the property."

[Scottish Government decision letter dated 20 December 2022 ref: STL-270-001 re Badenoch and Strathspey STL Control Area]

3 In my opinion, that is a correct statement of the law. A new planning permission is not required if, for example:

3.1 the existing short-term letting is authorised by a grant of planning permission issued prior to the establishment of the Control Area; or

3.2 the letting is lawful because it has been carried out for more than 10 years; or

3.3 planning permission was not required at the time the use was commenced - planning permission is required if there is a material change of use; the courts have held that whether a change of use is material is a question of the facts and circumstances of the individual situation; it is not appropriate to refer to new policies adopted after the use was commenced.