

**Association of Scotland’s Self-Caterers Response to Perth and Kinross Council’s**

**Proposed Short Term-Let Control Area**

**Introduction**

The Association of Scotland’s Self-Caterers (ASSC) welcomes the opportunity to respond to Perth and Kinross Council’s consultation on establishing a Short-Term Let Planning Control Area and to comment on the non-statutory planning guidance. As the main trade association for the self-catering sector in Scotland, representing over 1,700 members, 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.

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 sector’s fragile recovery from the Covid-19 pandemic and the ongoing cost of living crisis, not to mention the looming imposition of a heavy-handed, disproportionate short-term let licensing scheme from the Scottish Government, the prospect of a Short-Term Let Control Area by Perth and Kinross Council 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 these wards, we cannot support this proposal as it lacks a firm evidence base, will entail a negative material impact for small businesses in the wards affected, 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.

**Our Response**

From the outset, we wish to make clear that the ASSC is not averse to regulation; but we do challenge policies which lack a firm evidence base which will damage the livelihoods of our members. Indeed, **the ASSC supports Planning 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, due to the paucity of accurate data for the Planning Control Area proposals, the Council has singularly failed to provide that and the ASSC has already contacted Perth and Kinross Council to request a delay to this consultation**.[[1]](#footnote-1)

We are also critical of the timing of the exercise in two respects. First, **it is premature due to the fact that short-term let licensing is still being implemented and without the data arising from this, the Council does not have reliable data on the number of properties involved.** Second, **it takes place during the traditionally busy summer season for tourist accommodation providers like self-catering where businesses are operating in a time-sensitive environment.**

This consultation must be an open, transparent and meaningful exercise, not a fait accompli. It should be noted that planning officials are already deploying the planning guidance found in this consultation, with many applications being rejected. This exercise should not be pre-determined by the Council and it must take cognisance of stakeholder concern about the proposals as they stand.

**Overall, the ASSC:**

* **Disagrees with the principle of establishing a short-term let Planning Control Area, as well as its proposed location, as there is an insufficient evidence-base to proceed.**
* **Believes that the Council should instead undertake a comprehensive exercise in gathering precise and verifiable data, providing stakeholders with the necessary evidence to make an informed decision and take forward this consultation.**
* **Argues that the draft planning guidance is not fit for purpose and will be subject to legal challenge.**

**Planning Control Area**

Throughout the papers provided by the Council, there is a real lack of evidence of the impact of short-term lets on housing supply, which is clearly a relevant consideration for Perth and Kinross Council in advancing this proposal. The evidence paper fails to provide empirical data to show a link between short-term letting and the housing market. This underlines the fundamentally flawed nature of the proposal and why it needs to be urgently reconsidered.

The requirement to put in place a lawful, well-designed and evidence-based scheme is underlined by developments in other local authorities. City of Edinburgh Council is now subject to a second Judicial Review proceeding, this time on their planning policy – specifically relating to their Planning Control Area. Meanwhile, Highland Council have had to delay and take legal advice in respect of their proposed Planning Control Area for the Badenoch and Strathspey ward.

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.

**We therefore recommend that in order to facilitate a fair and well-informed consultation, it is imperative that Perth and Kinross Council undertake a comprehensive exercise in gathering precise and verifiable data, providing stakeholders with the necessary evidence to take forward this consultation.**

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

**Lack of robust evidence base**

The Council has not provided sufficient evidence to proceed with a Planning Control Area. For instance:

* **The evidence paper includes a repeated conflation of second homes and self-catering which are two distinct property types. ‘Self-catering and second homes’ was used as “proxy data” and as a “key metric”. When applying this methodology, a figure of 15% of dwellings were deemed to be STLs in Dunkeld and Birnam, when the reality is that just 5.7% of dwellings are self-catering units.**
* There is no information relating to why 10% was chosen as the impact threshold for defining the potential extent of a Control Area. An explanation as to how this was arrived at is required.
* Calculations to achieve critical percentages have included empty homes, which is a flawed rationale: the Planning Control Area is designed to limit short-term lets and will have no effect on the number of unoccupied properties, or indeed second homes that are not let commercially, so it is incorrect to include these in critical percentage thresholds.
* Short-term let licensing is still being implemented, and without the data derived from this scheme, there is no reliable data on the numbers of properties involved. Considering the designation of a Planning Control Area is therefore premature.

More widely, housing challenges in Perth and Kinross or indeed Scotland as a whole, 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 Council area. Such assumptions are based on anecdote and narrative. The Council therefore needs to take a much more holistic approach to housing problems in the proposed wards. The Evidence Paper highlights the large number of long-term empty homes across Perth and Kinross which account for a greater number of properties than self-catering units. The Council need to prioritise getting these properties back into use, rather than penalising small businesses who provide value to communities.

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 properly considered by the Council.

**As drafted, the data presented by the Council is not fit for purpose. This should be revised as a matter of urgency, with the consultation delayed to enable this to happen. Any decision taken by the Council must rely on accurate and reliable information which at the present time is sadly lacking.**

**Impact on Small 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 – Perth and Kinross Council ought to consider the impact on an already beleaguered and challenged self-catering industry hit by Covid-19, a cost-of-living crisis, as well as the prospect of an expensive licensing scheme. Indeed, the papers for the Environment, Infrastructure and Economic Development Committee (31 May 2023) highlight the following:

*“The latest available research (2021) indicates that the tourism economy has not recovered from the impact of the covid pandemic as yet and is still vulnerable to the new challenges of the cost-of-living crisis at the Perth & Kinross level. ‘By 2019, the annual value of tourism activity since 2010 had reached a total of £668m. Tourism activity and related spend in Perth & Kinross was substantially affected by Covid-19, but is recovering (+43% since 2020), whilst still remaining down (-44%) on 2019 pre-Covid levels’ (Source: Perth & Kinross Council STEAM Tourism Economic Impacts 2021 Year in Review p.4).”*

Further burdening the sector in this context is perplexing and comes at the worst possible time for small tourist accommodation businesses like self-catering.

A considerable proportion of short-term lets in the wards 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 Perthshire local economy by tens of millions each year, 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 STL 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 chainand the wider community. This emphasises the value that short-term lets provide to the wider economy 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.

**Tourism Action Plan**

The Perthshire Tourism Action Plan[[2]](#footnote-2) has clear strategic objectives to establish Perthshire as a leading ‘responsible’ tourism destination and to increase the impact and benefit of tourism across Perthshire’s communities. Self-catering supports the 4 Strategic Objectives and the 5 Opportunities below them. Indeed, self-catering is arguably the most sustainable form of tourism accommodation, benefitting communities directly with minimal tourism leakage.

**Impact on Perth and Kinross Council**

It is not just self-caterers and other local businesses who will be adversely affected – there will be consequences for Perth and Kinross Council. The proposals will pose significant resourcing implications – and perhaps an impact on existing service delivery. The evidence paper notes that a PCA *“would potentially require up to 600 Certificate of Lawfulness or planning applications and will represent a burden on business operators as well as the council.”* Moreover, papers for the Environment, Infrastructure and Economic Development Committee (31 May 2023) state that the additional planning applications will have *“an associated increase in workload pressures”*. The ASSC therefore believes the Council needs to undertake an economic impact assessment in terms of costs of introducing a Control Area in the affected wards.

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.[[3]](#footnote-3) Moreover, research carried out by the Royal Town Planning Institute (RTPI) in connection with the implementation of the Planning (Scotland) Act 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).[[4]](#footnote-4)

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.”*[[5]](#footnote-5) 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.”*[[6]](#footnote-6)

Under the current proposals, establishing a Short Term Let Control Area will merely entail negative consequences – be it damaging the region’s economic recovery, providing a resource and administrative burden, risking jobs and livelihoods for no material benefit, and it will not ameliorate housing concerns in the wards. 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 absent from the documents provided. We would therefore implore the Council to urgently reassess these plans.

**Planning Guidance**

**We strongly contend that this proposed planning policy from Perth and Kinross Council is disproportionate, over-reaching and overlaps with licensing.** Instead, the ASSC asserts that planning policies should be:

* Proportionate in nature, balanced, and rely on a firm evidence base;
* Protect the tourism related economy at a time when it should be supported to recover from the pandemic and cost-of-living crisis;
* Understand that short-term lets are a key source of accommodation that is imperative to the viability of local communities and major events; and
* Consider the economic impact of any planning policy, which will cost jobs and livelihoods in a sector that provides a £867m boost to the Scottish economy.

**Criterion 1:** Planning policy should be limited to whether a property involves a material change of use. Moreover, rather than focusing on self-catering, the Council should instead target empty homes and getting these properties back into productive use, as opposed to penalising small businesses which support local economies.

**Criterion 2:** As per criterion 1, the Council should limit their short-term let planning policy to planning matters only.

**Criterion 3:** This touches upon planning law and not guidance. The requirement for planning permission should only take effect from post designation. This was substantiated in a legal opinion from Brodies LLP in May 2023.

**Criterion 4:** While diversification should be supported, the Council should not discriminate against one sector. Existing legislation and planning law should be utilised.

**Criterion 5:** This concerns licensing and not planning policy and should be removed from the guidance.

**Overall, the guidance, as drafted, is clearly not fit for purpose and should be withdrawn and redrafted. If taken forward unamended, this will leave the Council open to legal challenges as we have seen in other local authorities.**

**FIONA CAMPBELL**

**CEO ASSOCIATION OF SCOTLAND’S SELF-CATERERS**

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1. [https://www.assc.co.uk/industry-news/call-to-delay-perth-kinross-planning-control-area](about:blank) [↑](#footnote-ref-1)
2. https://www.investinperth.co.uk/wp-content/uploads/2021/10/MASTER\_-Perthshire-Tourism-Action-Plan-2021-25.pdf [↑](#footnote-ref-2)
3. [https://archive2021.parliament.scot/S5\_Bills/Planning%20(Scotland)%20Bill/SPBill23AFMS052019.pdf](about:blank) [↑](#footnote-ref-3)
4. [https://www.rtpi.org.uk/media/1211/rtpi-scotland-financialimplications-of-implementing-the-planning-scotland-act-2019.pdf](about:blank) [↑](#footnote-ref-4)
5. [https://www.rtpi.org.uk/consultations/2020/october/short-term-lets/](about:blank) [↑](#footnote-ref-5)
6. [https://www.lawscot.org.uk/media/363183/19-07-19-plan-lic-short-termlets.pdf](about:blank) [↑](#footnote-ref-6)