



## **Housing and Short-Term Lets in Scotland: The Facts**

### **Background**

- ‘Short-term lets’ are often presented as being a leading cause of Scotland’s housing crisis. However, it is important to place the debate in a holistic context – for instance, noting the number of empty homes in Scotland, demographic changes, and the need to build more homes – while recognising the value of tourist accommodation to the Scottish economy and local communities.
- The ASSC welcomes the opportunity to share data about the holiday let sector which we believe will contribute to a more informed conversation about the appropriate regulatory framework.

### **Self-Catering in Scotland**

- Self-catering properties have been a longstanding presence in communities for generations, especially in rural/remote communities, and provide an economic boost for local areas and enhance Scotland’s tourist accommodation offering.
- **There are just 17,124 self-catering units on non-domestic rates in Scotland (6<sup>th</sup> December 2023)<sup>1</sup>. This represents just 0.6% of total dwellings in Scotland.**
- According to Frontline Consultants these properties generate: **2.4 million visitor nights** per year; **£867.1m** total visitor spend; and support **23,979 FTE jobs**.<sup>2</sup>
- 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.

### **The Need for Robust Empirical Data**

- Underpinning any decision to regulate the short-term letting sector is the need for **robust, empirical data**. Unfortunately, there has been a tendency to focus on scraped data from an online platform – based on inaccurate information and flawed methodologies – leading to misleading conclusions about the nature of the short-term letting landscape.<sup>3</sup>
- The **ASSC is not averse to regulation and has proactively shared evidence-based policy papers and recommendations**<sup>4</sup> since 2017 about the nature and scale of short-term letting in Scotland but unfortunately this has been ignored by a focus on this unreliable data from one marketing platform.
- The Scottish Government’s draft BRIA for short-term let licensing references research noting that there were approximately 32,000 active listings on Airbnb in May 2019.<sup>5</sup> However, this **has never meant** that there were/are 32,000 short-term lets which would be readily available on the long-term housing market as many have erroneously claimed.
- **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

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<sup>1</sup> [Scottish Assessor Association](#)

<sup>2</sup> <https://www.assc.co.uk/wp-content/uploads/2021/08/Economic-Impact-Study-%E2%80%93Scotland-Report.pdf>

<sup>3</sup> This is evident in both the Scottish Government’s BRIA accompanying their licensing proposals, as well as City of Edinburgh Council’s plans for a short-term let control area.

<sup>4</sup> For instance, see ASSC, *Far More Than Just Houses: The Benefits of Short-Term Rental in Scotland* (2018). Url: <https://www.assc.co.uk/wp-content/uploads/2018/06/MoreThanJustHouses.pdf>; and ASSC, *Forward Together: A Collaborative Approach to Short-Term Letting* (2020). Url: [https://www.assc.co.uk/wp-content/uploads/2020/12/2020\\_ForwardTogether.pdf](https://www.assc.co.uk/wp-content/uploads/2020/12/2020_ForwardTogether.pdf)

<sup>5</sup> <https://www.gov.scot/publications/short-term-lets-licensing-scheme-planning-control-area-legislation-draft-business-regulatory-impact-assessment-bria/>

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.

- Parliamentary answers from the Scottish Government<sup>6</sup> confirm the **BRIA figures were from scraped data provided by InsideAirbnb** (not from any platform directly) and that they **could not break this down by property type** – be it a single/shared room, entire property, or unconventional accommodation. This means the estimation there were ever 32,000 “short-term lets” is wholly unreliable. It is also based on pre-pandemic 2019 figures. Moreover, they admit “**we do not have an estimate of how many short-term lets will return to the long-term housing market.**”<sup>7</sup> This is no more apparent following introduction of STL Licensing.

### **Planning**

- In Lord Braid’s opinion in the petition of Iain Muirhead and Dickins Edinburgh Limited, he identified that a Short-Term Let is a form of tenancy (or other agreement) whereby, in return for commercial consideration, **residential** accommodation is provided to a tenant (or guest) for a limited period of time, which is not intended to form the tenant’s (or guest’s) main residence<sup>8</sup>.
- On 1<sup>st</sup> December 2023, Lord Braid found in favour of the petitioners in the above Judicial Review. The court declared that S26B (the requirement for all STLs to apply for planning permission within a Planning Control Area) does not apply retrospectively, and so does not affect STL operators where change of use occurred before the designation of the STL area<sup>9</sup>. This will affect STL operators across the whole of Scotland.
- Lord Braid confirmed that there is a general presumption that Parliament does not intend legislation to be retrospective: “*Generally, there is a strong presumption that a legislature does not intend to impose a new liability in respect of something that has already happened.*”<sup>10</sup>
- It has always been able to prevent the use of a property in any capacity: **Section 71(1) of the Town and Country Planning (Scotland) Act 1997<sup>11</sup> provides a mechanism whereby a planning authority may require a previously permitted use to be stopped.** “*If, having regard to the development plan and to any other material considerations, it appears to a planning authority that it is expedient in the interests of the proper planning of their area (including the interests of amenity) (a) that any use of land should be discontinued... they may by order – (i) require the discontinuance of that use.*” **Where such an order is made, a right to compensation arises under section 83 of the Act<sup>12</sup>.**
- **Whether the use of a dwellinghouse for short-term letting does amount to a material change of use is a question of fact and degree depending on the individual circumstances of the accommodation<sup>13</sup>.**
- This concurs with legal opinion provided to the ASSC by Brodies LLP that planning permission is not necessarily required for a change of use to short-term holiday accommodation. In fact, the question of a change in material use depends on the individual circumstances of each premises and planning authorities must take this into account<sup>14</sup>.

### **Distinguishing between Empty Homes, Second Homes and Self-Catering Accommodation**

- The issue of second homes and holiday lets should not be conflated. They are different types of property and should be treated as such. Clear definitions are therefore imperative.

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<sup>6</sup> Parliamentary answer to S6W-02111. Url: <https://www.parliament.scot/chamber-and-committees/written-questions-and-answers/question?ref=S6W-02111>

<sup>7</sup> Parliamentary answer to S6W-02109. Url: <https://www.parliament.scot/chamber-and-committees/written-questions-and-answers/question?ref=S6W-02109>

<sup>8</sup> [https://www.scotcourts.gov.uk/docs/default-source/cos-general-docs/pdf-docs-for-opinions/2023csoh86.pdf?sfvrsn=43e9a47\\_1](https://www.scotcourts.gov.uk/docs/default-source/cos-general-docs/pdf-docs-for-opinions/2023csoh86.pdf?sfvrsn=43e9a47_1)

<sup>9</sup> <https://www.assc.co.uk/industry-news/judicial-review-regarding-planning-permission-requirement-for-stls-has-been-found-to-be-unfair-and-illogical>

<sup>10</sup> [https://www.scotcourts.gov.uk/docs/default-source/cos-general-docs/pdf-docs-for-opinions/2023csoh86.pdf?sfvrsn=43e9a47\\_1](https://www.scotcourts.gov.uk/docs/default-source/cos-general-docs/pdf-docs-for-opinions/2023csoh86.pdf?sfvrsn=43e9a47_1)

<sup>11</sup> <https://www.legislation.gov.uk/ukpga/1997/8/section/71>

<sup>12</sup> [https://www.scotcourts.gov.uk/docs/default-source/cos-general-docs/pdf-docs-for-opinions/2023csoh86.pdf?sfvrsn=43e9a47\\_1](https://www.scotcourts.gov.uk/docs/default-source/cos-general-docs/pdf-docs-for-opinions/2023csoh86.pdf?sfvrsn=43e9a47_1)

<sup>13</sup> *ibid*

<sup>14</sup> <https://www.assc.co.uk/legislation/brodies-llp-legal-opinion-requirement-for-planning-permission-2>

- Empty and second homes are concentrated in different parts of the country. For example, remote rural areas have a higher percentage of empty and second homes than urban areas. However, City of Edinburgh is a hotspot for empty homes in Scotland.
- These empty homes could be utilised for far more productive purposes and provide homes for those who need.
- **There are now over 9,285 empty homes in Edinburgh<sup>15</sup>.**
- The Scottish Government launched [a consultation](#) in 2023, ostensibly on second homes and empty homes, yet it also brings in an entirely separate property type into the debate – self-catering.
- The consultation asked if there should be changes to the definition of when a property offering self-catered accommodation becomes liable for non-domestic rates, which has recently been dealt with by recent regulations.
- Self-catering properties are already grappling with the changes associated with licensing and planning regimes during extremely challenging times for Scottish tourism and the imposition of further changes which may impede recovery is the last thing the sector needs.
- **While seeking to clamp down on second and empty homes, the Scottish Government must be mindful of any unintended consequences for the self-catering sector and the thousands of small businesses which form an integral part of our tourism offering, particularly in rural and remote areas.**

### **Key Definitions**

**Self-Catering Accommodation**, or a Self-Catering Unit (SCU), is defined by the Scottish Assessors as:

*“2. Any lands and heritages –*

*a) which are not the sole or main residence of any person; and b) which either –*

*i) are made available by a relevant person for letting, on a commercial basis and with a view to the realisation of profit, as self-catering accommodation for short periods amounting in the aggregate to 140 days or more in the financial year; or*

*ii) if they have not been made so available for letting in that year, are intended by a relevant person to be made so available for letting in that year and the interest of the relevant person in the lands and heritages is such as to enable him to let them for such periods.”<sup>16</sup>*

- In order to be classed as a **Non-Domestic** property and liable for Non-Domestic rates (NDR) instead of Council Tax, a self-catering property will be required to provide evidence of 70 days of actual letting as well as 140 days of intention to let from 2022-23 onwards. This legislation was dealt with recently by the Scottish Parliament<sup>17</sup>.
- In contrast, **empty properties** are those which have been empty for more than 6 months and are liable for council tax, while **second homes** are defined as properties that are furnished and lived in for at least 25 days in a 12-month period but not as someone’s main residence.
- **Unlike second and empty homes, self-catering properties provide multiple benefits for local communities**, with the industry providing a £867m annual boost to the Scottish economy, generating 2.4 million visitor nights per year and supporting 23,979 jobs.
- There are currently **17,124** self-catering units (SCUs) on NDR (6<sup>th</sup> December 2023), with 80% of ASSC members benefiting from the Small Business Bonus Scheme.
- **Many derelict properties across Scotland have been repurposed as self-catering holiday homes through private investment, benefiting local communities and economies.**
- Second Home owners who are currently secondary letting and economically contributing, cannot pivot towards Private Residential Tenancies because they need to gain access throughout the year for their own use. Many second homes are inherited family homes. With a sentimental connection, people will not sell these. Therefore, as long as mandatory health & safety conditions are met, owners should be encouraged and supported to rent out their second home whenever they need or want to, without barriers. **This will support social responsibility, local communities and economies and can alleviate some housing pressure when used as mid-term rentals.** Planning consideration for second homes should be removed, whether in

<sup>15</sup> [https://www.edinburghnews.scotsman.com/news/people/edinburgh-housing-crisis-more-than-9000-properties-sitting-empty-amid-soaring-demand-for-housing-3966840?fbclid=IwAROHvtPikWqInC3cl8IFJqM1\\_FWxOzbVrqHvLPfyWJcYK3F\\_XuCl2bRaDkc](https://www.edinburghnews.scotsman.com/news/people/edinburgh-housing-crisis-more-than-9000-properties-sitting-empty-amid-soaring-demand-for-housing-3966840?fbclid=IwAROHvtPikWqInC3cl8IFJqM1_FWxOzbVrqHvLPfyWJcYK3F_XuCl2bRaDkc)

<sup>16</sup> <https://www.saa.gov.uk/non-domestic-valuation/2017-practice-notes/>

<sup>17</sup> <https://www.legislation.gov.uk/ssi/2021/489/contents/made>

a Planning Control Area or not, as there is no material change of use. This removes the uncertainty created by local authorities and their interpretations of change of use. This will prevent homes which are currently economically contributing, being closed for the majority of the year<sup>18</sup>.

- **Increasing council tax for second homes, licensing and planning policies will not result in a glut of affordable homes to buy or rent and anyone suggesting otherwise is raising false hopes.**

### **A Holistic Approach to Housing Policy**

- The housing challenges facing Scotland are far more multifaceted than the existence and growth of short-term and holiday lets alone. For instance:
- There were 2.7m dwellings in Scotland in 2022<sup>19</sup>. Of these 2.7m dwellings, 115,000 (4.3%) were unoccupied. These unoccupied dwellings included:
  - vacant properties (90,700, 3.4% of all dwellings)<sup>20</sup>
  - second homes (24,300, 0.9% of all dwellings).
- In 2022, just under two thirds (27,700) of long-term empty dwellings had been empty for 12 months or more<sup>21</sup>.
- in January 2023 there were **42,865 long-term empty homes** in Scotland. These empty homes could be utilised for far more productive purposes and provide homes for those who need.
- **These figures should be seen in the context that there are currently just 17,124 SCUs on NDR.**
- The population has grown by 8% and there are 16% more households since 2001. City of Edinburgh had the largest increase in absolute number of households (17,300), an increase of 8%.<sup>22</sup>
- Over a third of households in Scotland are just one person living alone.
- 172,170 houses were built between 2010-2019 (18,118 in Edinburgh)<sup>23</sup> – and we need many more. Homes for Scotland have argued that Scotland has amassed a housing shortfall of 85,000 homes and that we need to **build at least 25,000 per year** to meet the demands of our population.<sup>24</sup>
- Progress on housebuilding is not fast enough. For instance, the Scottish Government have only spent half of their £25m Rural Housing Fund which aims to build affordable homes in rural areas.<sup>25</sup>
- The Highland Council has 111,633 dwellings (2022). This includes 5,511 (5%) SCUs<sup>26</sup>. 4.3% of dwellings are classified as vacant, 2.6% empty and 3% second homes<sup>27</sup>
- Argyll & Bute Council has 48,285 dwellings (2023)<sup>28</sup>. The local authority received 2,199 (4.5%) secondary let licence applications by 1<sup>st</sup> October 2023. There are 3,235 second homes (6.7%) and approximately 1,300 Empty Homes.
- In 2022, the number of dwellings in Perth and Kinross was 75,321<sup>29</sup>. Proportion of dwellings that are vacant: 3.6% Long-term empty: 1.7% Second homes: 1.6. 1,382 businesses applied for STL secondary let licence applications (1.8%).
- City of Edinburgh Council has 257,658 dwellings (2021). This includes 1148 (5%) SCUs on NDR (0.4%). With just 1,382 STL secondary let licence applications (0.5%), there are **9,285 empty homes (3.6%)**.
- Imposing barriers or further regulating self-catering units will not ameliorate housing challenges in Scotland. While moves to tackle second homes and bring empty homes back into more productive use should be welcomed, we need a much more holistic approach: that is, empty homes, second homes, housebuilding, and affordable housing.
- **The Scottish Government must also evaluate whether existing policies, such as the onerous short-term let licensing scheme, may actually exacerbate some of the issues they are trying to solve.** For instance, concerns have been expressed that licensing could actually increase the number of second homes.

<sup>18</sup> <https://www.assc.co.uk/industry-news/short-term-let-licensing-red-flags-and-solutions-11th-july-2023/>

<sup>19</sup> <https://www.nrscotland.gov.uk/files//statistics/household-estimates/2022/house-est-22-report.pdf>

<sup>20</sup> Vacant properties included those classified as: long-term (six months or more) empty (44,600, 1.7% of all dwellings) unoccupied exemptions (46,100, 1.7% of all dwellings), such as new homes yet to be occupied and dwellings undergoing repair or awaiting demolition.

<sup>21</sup> <https://www.nrscotland.gov.uk/files//statistics/household-estimates/2022/house-est-22-report.pdf>

<sup>22</sup> <https://www.nrscotland.gov.uk/files//statistics/household-estimates/2020/house-est-20-publication.pdf>

<sup>23</sup> <https://www.gov.scot/publications/housing-statistics-for-scotland-new-house-building/>

<sup>24</sup> [https://yourviews.parliament.scot/session-5/local-gov-sustainability-covid/consultation/download\\_public\\_attachment?sqld=question-2020-06-10-3171498657-publishablefilesquestion&uuld=866941340](https://yourviews.parliament.scot/session-5/local-gov-sustainability-covid/consultation/download_public_attachment?sqld=question-2020-06-10-3171498657-publishablefilesquestion&uuld=866941340)

<sup>25</sup> <https://www.thecourier.co.uk/fp/politics/scottish-politics/2493715/snp-ministers-under-fire-over-failure-to-spend-25-million-rural-housing-fund/>

<sup>26</sup> Self-Catering Units on Non-Domestic Rates, as classified by the Scottish Assessors Association

<sup>27</sup> <https://www.nrscotland.gov.uk/files//statistics/household-estimates/2022/house-est-22-report.pdf>

<sup>28</sup> Argyll & Bute Council Local Housing Strategy 2022-2027

<sup>29</sup> <https://www.nrscotland.gov.uk/files//statistics/household-estimates/2022/house-est-22-report.pdf>

- Many self-catering properties could not be classified as ‘affordable housing’ and if more operators leave the market due to the regulatory burden, there is nothing to stop an owner from using their property as a second home for themselves, or to sell it to an individual who will then use it as a second home.
- **When housing demand and the level of empty housing is set against the number of self-catering units, it suggests self-catering activity is not of a scale sufficient to affect housing supply issues in Scotland. Ultimately, building too few homes remains the core cause of Scotland’s housing problems, not the holiday let sector.**

#### **Conclusion**

- Policymakers should not use holiday accommodation as a means to solve housing challenges in Scotland, instead focusing on understanding housing needs, building more affordable homes and tackling the scourge of empty properties.
- The Scottish Government’s BRIA accompanying their licensing proposals states: *“A benefit of licensing will be improved access to affordable rented homes.”* This claim is entirely unfounded and lacks an evidence base.
- Short-term let regulations need to be informed by robust empirical data. Scraped data from online platforms has evidentially led to misleading conclusions about the nature of the short-term let market.
- Any housing issues in relation to short-term lets should be addressed by the Planning Act 2019 – through the introduction of Planning Control Areas, where the need is underpinned by robust quantitative data.
- Small businesses like self-catering, present in communities for decades, should not be used as a convenient scapegoat for wider failures in housing policy.
- **A meaningful and robust review of Short-Term Let Licensing and Planning, and the unintended consequences that have been evidenced since implementation, must now be undertaken by the Scottish Government, not least because both policies have been found to be legally deficient in the way they have been implemented by local authorities**
- The Scottish Government needs to back legitimate professional businesses and our renowned tourism sector as we recover from the effects of Covid-19, not to mention the cost of living crisis, allowing visitors at home and abroad to benefit from our unique hospitality and award-winning and increasingly demanded range of accommodation.

**Fiona Campbell**

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**December 2023**