

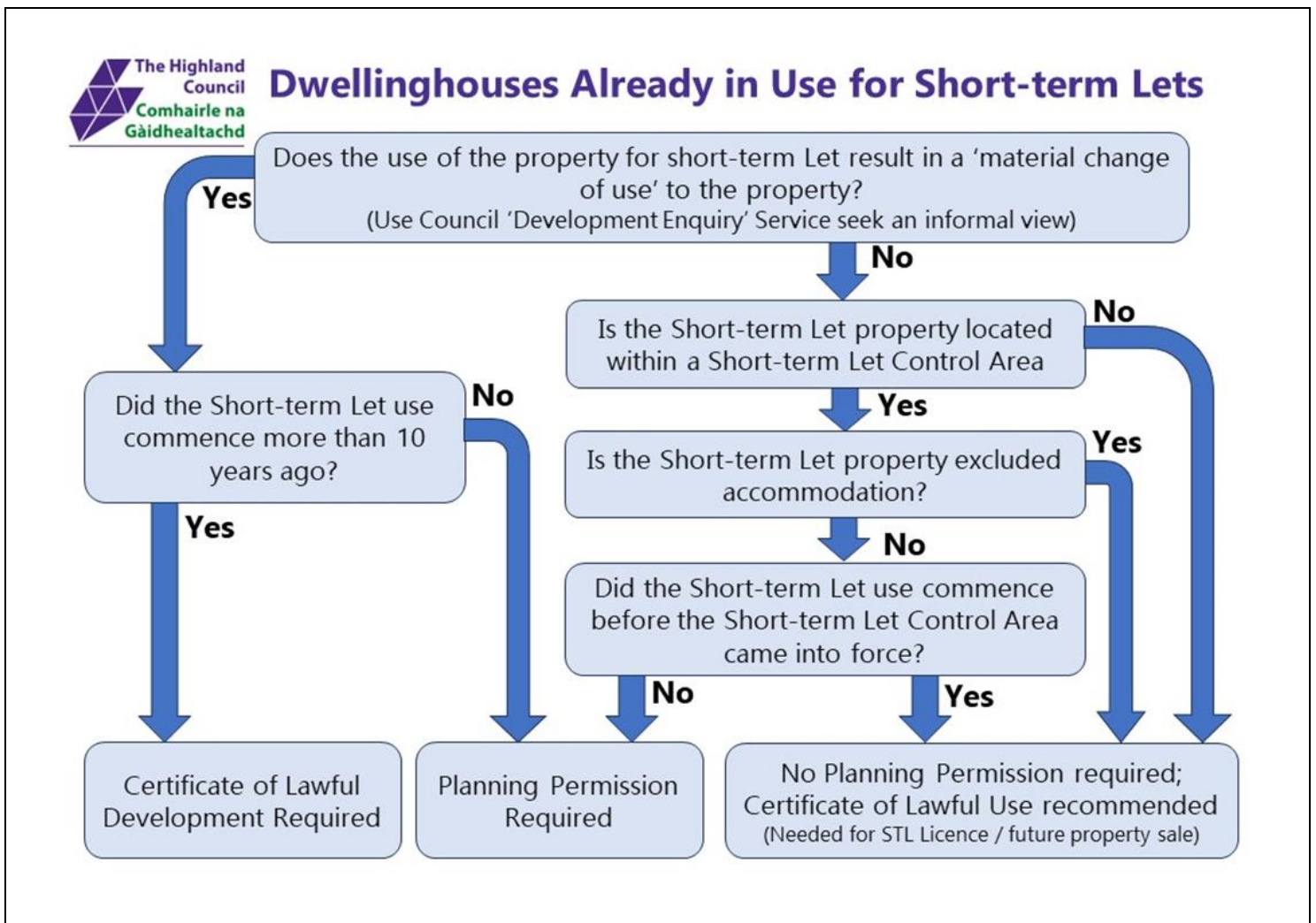
This guidance note has been developed to support the introduction of the Badenoch & Strathspey Short-term Let Control Area. This guidance document will be kept under review and updated according to Scottish Government policy advice and interpretation.

Further Advice on Short-term Lets can be found on the Council webpage at:

<https://www.highland.gov.uk/stlcontrolarea>



<https://www.highland.gov.uk/info/20021/short-term-lets>



Short-term Let Control Area

When does it come into force?

The Badenoch & Strathspey (Ward 20) Control Area will come into force at 12pm on Monday 4 March 2024.

What Area does it cover?

The entire Ward 20 (Badenoch & Strathspey) area is covered by the Control Area, a map of ward 20 is available at <https://www.highland.gov.uk/stlcontrolarea>.

Why has the Council chosen Ward 20? / Why is the Council creating a Short-term Let Control Area?

Ward 20 Elected Members saw it as an opportunity to address the availability of full-time housing stock across the ward.

What will change after Monday 4 March 2024?

Any dwellinghouse which is not already being used for short-term let, which is not excluded accommodation, will require planning permission before it can be used for short-term letting.

Existing Short-term Let Properties

I have an existing short-term let property, does the Control Area affect me?

The requirements of the Control Area are not retrospective. However, if the use of the dwellinghouse needed planning permission before the Control Area came into force (even if it had not been obtained) it would still need it once the Control Area has been established.

How do I know if I needed planning permission?

The Council offers a free 'Development Enquiry' Service (see below) to provide an informal view if a 'material change of use' of the dwellinghouse to short-term let property has occurred and thus if planning permission is required.

If I do not require planning permission, how can I prove to the Short-term Let Licensing Team that I do not require planning permission / satisfy my mandatory licensing condition?

The Council Developer Enquiry response has no legal standing. Therefore, if you are an existing operator, the Council strongly recommends that you seek a Certificate of Lawfulness to provide legal documentation that the use of the property is lawful.

If I want to sell my short-term let property, how can I demonstrate that it can be used as a short-term let property?

The Council Developer Enquiry response has no legal standing. Therefore, if you are an existing operator, the Council strongly recommends that you seek a Certificate of Lawfulness to provide legal documentation that the use of the property is lawful.

Development Enquiry Service

How do I submit the development enquiry?

Please use the online form available here -



<https://www.highland.gov.uk/info/20021/short-term-lets/1034/check-if-you-need-or-have-planning-permission>

How quickly can I expect a response?

It will take the Council a period of time to consider your case, so please do not expect an immediate response.

Does it cost?

The service is free, providing you choose the 'Short term let provider' option when completing the online form.

Is it confidential / does the Council keep a record of submissions?

The submission is recorded on the Council system, but the data is not available for public viewing.

Is the Development Enquiry a legal document?

No, the Council Developer Enquiry response has no legal standing and that the consideration of a material change of use is just an informal view from the Council. The only legal definitive way for the Council to confirm that a material change of use has not occurred is through the Certificate of Lawfulness application. Therefore, if you are an existing operator, the Council strongly recommends that you seek a Certificate of Lawfulness to provide the legal confirmation/ documentation.

Existing Applicants**I have submitted a planning application for a property within the new Control Area, which is pending decision, what will happen with it when the Control Area comes into force?**

The Council will contact each applicant individually and outline the options available to them in order to progress their application.

I have submitted a planning application for a property being used as a short-term let, do I also need to submit a 'Development Enquiry' to consider if a material change of use has occurred?

No, the Council will do this as part of the consideration of the advice it will provide when contacting applicants.

When will the Council contacted me / Will it be before the Control Area comes into force?

Given the number of applications outstanding, it is unlikely all will be contacted by 4th March. However, the Council has determined to do so by April 2024.

Will the Council be contacting the outstanding planning applications in the order they were submitted?

Each individual Case Officer will be contacting applicants, so no guarantee can be given it will be in date of submission order.

Can I change my planning application submission to a Certificate of Lawfulness?

The Council is developing a system to allow the applicant to request to change their submission to a Certificate of Lawfulness and further information on this will be outlined in due course.

Should I withdraw my application now?

The Council would strongly advise that you do no action until the Council contacts you to advise of the options moving forward.

If I withdraw my application, do I get a refund on application?

There is no right to an automatic refund for withdrawn applications.

Material change of use**What is the Council definition of 'material' where a short-term let is concerned?**

The Planning Authority will consider, on a case-by-case basis, whether proposals represent a material change of use and therefore require planning permission.

Key considerations will be the likely impacts on immediate neighbours, the wider local amenity and infrastructure of the proposed use in the proposed location.

Examples of material considerations on the subject of Short Term Lets include:

- The character of the property, including the number of bedrooms
- Frequency of arrivals and departures
- Number of people staying
- Their likelihood to be a single household
- Frequency and intensity of noisy or otherwise unsocial activities
- Impact on public services such as on-street parking and waste collection
- Use of communal areas and shared access

But each case is different, and only the Planning Authority can determine if a material change of use has occurred. Please use the Council 'Development Enquiry' Service outlined above to seek a view if a material change of use has occurred.

Certificate of Lawfulness

Does a Certificate of Lawfulness carry forward to future property owners?

Yes, the Certificate of Lawfulness goes with the land and building and not the owner.

Will I need to provide evidence for the certificate to be granted?

Yes, some form of evidence should be submitted such as booking history.

Do I need a Certificate of Lawfulness?

If you are an existing operator and no material change of use to the property has occurred (see above), the planning authority cannot insist you seek a Certificate of Lawfulness. However, the Council strongly recommends that you seek one to provide legal confirmation and documentation to satisfy the short-term let licence requirement and/or future sale.

Is there a fee to pay?

Yes, the fee payable will be determined at time of application.

Further information on the Certificate of Lawfulness can be found in Annex F of Planning Circular 10/2009: Planning Enforcement, available at <https://www.gov.scot/publications/planning-circular-10-2009-planning-enforcement/pages/7/>

New Short-term Let Properties

I want to commence operating a short-term let property after 4th March 2024, what do I need to do?

You will need planning approval (and a STL licence) before you can commence operating.

Will I get planning permission for a new short-term let property after 4th March 2024?

The Council has adopted new non-statutory planning policy and new applications for short-term let will be determined against this new policy and the relevant adopted statutory development plans. The new non-statutory policy can be viewed at <https://www.highland.gov.uk/stlcontrolarea>.

Enforcement

Will the Council be taking enforcement action against existing short-term let properties?

The Council will initially be taking a 'light touch' approach to enforcement in order to allow the Control Area to 'bed in'. However, if operators continue to ignore the requirements, the Council will consider appropriate action in due course.

Excluded Accommodation

What is excluded accommodation?

Within a Control Area, excluded accommodation means a dwellinghouse which is, or is part of:

- residential accommodation where personal care is provided to residents,
- a hospital or nursing home,
- a residential school, college or training centre,
- secure residential accommodation (including a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation or accommodation used as military barracks),
- a refuge,
- student accommodation,
- premises in respect of which a premises licence within the meaning of section 17 of the Licensing (Scotland) Act 2005(7) has effect and where the provision of accommodation is an activity listed in the operating plan as defined in section 20(4) of that Act.

Short-term Let Licensing

Please email any licensing questions to STL@highland.gov.uk

The above FAQs is not a definitive source of legal information.

This document relates to the planning regime in Scotland.

If in doubt seek professional advice.

This advice is given without prejudice to the future consideration of and decision on any application received by The Highland Council.

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