

<b>Agenda Item</b>	<b>14</b>
<b>Report No</b>	<b>ECI/28/2023</b>

## HIGHLAND COUNCIL

**Committee:**                      **Economy and Infrastructure**

**Date:**                              **4 May 2023**

**Report Title:**                      **Establishing a Short-Term Let Control Area for Ward 20:  
Badenoch and Strathspey**

**Report By:**                      **Executive Chief Officer Infrastructure & Environment**

### **1                                      Purpose/Executive Summary**

- 1.1      This report informs Members of the outcome of the application to Scottish Ministers to establish a Short-Term Let Control Area for Ward 20 (Badenoch and Strathspey) and seeks Member's approval to commence the final process for its establishment.
- 1.2      The report also invites Members to consider, in light of the consultation responses, if they wish to adopt the draft Non-statutory Planning policy (as amended) with which to determine planning applications for Short-term Secondary lets within the Control Area.

### **2                                      Recommendations**

- 2.1      Members are asked to:-
  - i.        Based on the Scottish Ministers approval of the Council application to establish a Short-Term Let Control Area for Ward 20 (Badenoch and Strathspey), delegate authority to officers to:-
    - a.       **undertake** the final legislative arrangements to establish the Short-Term Let Control Area for Ward 20 (Badenoch and Strathspey), including the necessary press advertisement, notification of interested parties and other publication work;
    - b.       **agree** for Officers to hold information session(s) to inform existing (& perspective) operators of the requirements the Control Area has across Ward 20 (Badenoch and Strathspey); and
    - c.       **agree** the commencement date of the Short-Term Let Control Area for Ward 20 (Badenoch and Strathspey) will be 18 June 2023.

- ii. consider the consultation feedback and the potential implications the draft Non-statutory Planning policy will have on the determination of planning applications for Short-term Secondary lets, as set out in Appendix 2 and summarised in Section 6 of this Report and agree to adopt the draft Non-statutory Planning policy (as amended) (Appendix 3) as a material consideration in the determination of planning applications for Short-term Secondary let planning applications.

### **3 Implications**

- 3.1 **Resource** – The work undertaken in progressing the STL Control Area for Ward 20 to date has been extensive and has involved a significant number of officers across a variety of services prioritising this work which has negatively impacted on other work streams.
- 3.2 Should the progression of the Badenoch & Strathspey STL Control Area be agreed the statutory process would have to be met from existing Service budgets and by existing staff resource.
- 3.3 The ongoing need to consider and determine STL planning applications within the STL Control Area will have an ongoing impact on performance, staffing and budgets.
- 3.4 **Climate Change / Carbon Clever** – The anticipated outcome of returning STL properties back into full-time residential units will reduce the need to build additional housing to satisfy full-time occupancy demand, thus reducing the need to develop Highland finite land resource and use finite building materials, in pursuance of the Council Climate & Ecological Emergency declaration. However, it might necessitate the development of additional 'tourist accommodation' to compensate for the loss of STL being moved back into full-time housing.
- 3.5 **Risk** – The risks (and benefits) of controlling STL are explored as part of the body of this report.
- 3.6 **Gaelic** – No direct Impacts

### **4 Background and Context**

- 4.1 Following Ward 20 Members concern over the number of dwelling houses within Badenoch and Strathspey being lost to the secondary letting market, at the Highland Council meeting on 9 September 2021, at the specific request of Ward 20 Members, it was agreed that the Council would pursue the consideration of establishing a Short-term Let Control Area across Badenoch and Strathspey.
- 4.2 This detailed consideration of establishing this Short-term Let Control Area across Badenoch and Strathspey was undertaken at Economy and Infrastructure Committee meeting on 2 December 2021, whereby the Committee agreed to advance to the formal consultation stage of the process.

- 4.3 This consultation ran for a 6-week period, from 31 January 2022 until 7 March 2022, with a total of 332 responses received. All responses were summarised and reported to the meeting of the Highland Council on 30 June 2022. At this meeting Members agree for Officers to submit the proposal to establish a Short-term Let Control Area for Ward 20 to Scottish Ministers for approval and bring back a further report to the Economy and Infrastructure Committee confirming the outcome and outlining the next steps.
- 4.4 Moreover, the Committee Report of 30 June also committed the Council, in consultation with Members, to prepare and consult upon planning policy options for considering and determining planning applications for secondary letting within the STL Control Area. This paper also outlines the details of this planning policy, the outcomes of the consultation and details of the changes to the policy wording before seeking its adoption.
- 4.5 The Scottish Government is also working on the preparation of a Planning Circular and a 'Guidance for Short-term Let Operators' document to clarify the planning process for the whole short-term let market. It is anticipated the finalised versions will be published by the summer 2023.

## **5 Progress on Establishing a Short-Term Let Control Area for Ward 20 (Badenoch and Strathspey)**

- 5.1 As outlined above the process for the establishment of the Short-Term Let Control Area for Ward 20 (Badenoch and Strathspey) has been ongoing for a considerable period and has involved considerable work. This work culminated with the Council submitting its Statement of Reasons and the relevant committee and council meeting reports and minutes to Scottish Ministers in August 2022.
- 5.2 After carefully consideration of all the evidence presented to them, Scottish Ministers on 20 December 2022, approved the proposed designation of Highland Council Ward 20 (Badenoch & Strathspey) as a Short-Term Let Control Area (Refer to Scottish Ministers Decision in **Appendix 1**).
- 5.3 In order to enact the Ward 20 (Badenoch & Strathspey) Short-Term Let Control Area, and in accordance with Regulation 9 of the Town & Country Planning (Short-Term Let Control Areas) (Scotland) Regulations 2021, the Council is required to publish a notice in a newspaper circulating in the area (in this case the Strathspey & Badenoch Herald) and on the planning authority's website. This notice must include the following:-
- the date on which the area is to be designated as a control area; and
  - how a copy of a map of the designated control area can be inspected
- 5.4 And at least 28 days must be allowed between the date of the publication of the notice and the changes taking effect.

- 5.5 Therefore, Members are asked to delegated authority to Officers to undertake and publish this notice.
- 5.6 With regards the date on which the Control Area will be formally established, it is noted Members previous ambition to proceed timely with its establishment. As such, the earliest possible date considering officer's time, press publication dates and the required advert timeframe would be the establishment of the Control Area on Sunday **18 June 2023**.
- 5.7 However, it is acknowledged that this date is only two weeks before the commencement of the school summer holidays, which is generally considered the busier season for holiday accommodation.
- 5.8 Whilst the establishment of a Short-term Let Control Area itself does not require existing properties currently being utilised for Short-term Secondary letting to apply retrospectively for planning approval. Schedule 3 of the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022, makes it a mandatory licence condition of a STL Licence that if the property is within a STL CA that the property is either:-
- a) be subject to an application for planning permission under the 1997 Act and that application has not yet been determined; or
  - b) have planning permission in force under the 1997 Act
- 5.9 This STL licensing mandatory condition therefore necessitate all existing properties being utilised for Short-term Secondary Letting which fall within a Short-term Let Control Area to obtain planning permission to continue to operate, even if that property has been operating as a short-term secondary letting unit prior to the Control Area being established.
- 5.10 There are two avenues for existing operators to obtain permission and the appropriate option depend on how long the property has been used for secondary letting. If the property has been used as a STSL for more than 10 years, then a certificate of Lawfulness of existing use of development should be sought. However, if the property has been used for less than 10years then planning permission is required.
- 5.11 Nevertheless, existing operators who were operating before 1 October 2022 now have until 1 October 2023 to apply for the STL Licence. As such, subject to Member's approval, it is recommended that the Council operates a 'transitional period' for existing operators, operating before 1 October 2022, where no planning enforcement would be pursued between 18 June 2023 and 1 October 2023, unless a property is first refused planning approval.
- 5.12 Should Members decide it is appropriate to delay the establishment of the Control Area until after the summer season, it is recommended that an alternative establishment date could be 1 October 2023, which matches the final date for existing hosts or operators (operating before 1 October 2022) to apply for a short-term let licence, or another date as defined by Members.

## 6 Review of Consultation Responses on the draft STSL Non-statutory Planning Policy

- 6.1 As outlined in Section 4, following Committee approval on 30 June 2022 to progress with the establishment of the Short-Term Let Control Area for Ward 20, officers commenced drafting non-statutory planning policy with which to determine the applications a Control Area would create.
- 6.2 In accordance, with the recommendations set out in the June 2022 committee paper, a Ward 20 Members discussion was held in August 2022 to discuss the various policy approaches. This work then led to the development of a draft policy approach which was presented and discussed at a members' workshop, open to all Members, in October 2022.
- 6.3 Following this Workshop and after further refinements undertaken in agreement with the Badenoch & Strathspey Area Chair and Chair of the Economy and Infrastructure Committee, the draft non-statutory planning policy was opened for public consultation on 8 December 2022 and closed on 3<sup>rd</sup> February after an 8-week period.
- 6.4 The Consultation attracted 56 responses via the Council Consultation portal and 7 direct responses, one of which included a petition including 208 names and addresses. All responses are summarised in **Appendix 2** of this report.
- 6.5 The consultation has attracted a mix of comments and views, with the specific responses to the individual questions summarised below. However, several more general questions and views were expressed as part of the consultation, and these are summarised below:-
- There is concern that the STL Control Area will not prevent second homes. **Officer Comment: The STL CA is only one tool with which to help support the full-time occupancy housing market and whilst the STL CA will not prevent second homes, other forms of regulations are anticipated to deal with the second homes market.**
  - Rather than restricting the use of existing homes the Council (and partners/developers) should be releasing more land / building more homes for local people. **Officer Comment: The Council (& CNPA) allocate sufficient land within their respective Local Development Plans to meet predicted housing needs; however, the loss of the existing housing stock outwith full time occupancy is such that other controls are required, hence the proposal for the STL CA.**
  - The STL Control Area will restrict the rights of homeowners and the quantity of visitor accommodation across the area. **Officer Comment: The Council has carefully balanced the merits and risks of progressing a STL CA across Ward 20 and have determined that it strike a balanced approach.**
  - There is no evidence that the stopping STSL will create more main-stream housing. **Officer Comment: Agreed, the STL CA is currently the only tool with which to control the number of STSL.**

- Local people who have moved away and now operate a STSL might be forced to sell. **Officer Comment: The proposed Policy is designed to set a balanced approach to bring more housing back into fulltime occupancy regardless of ownership.**
- Why is the STL CA being 'trailed' only in Badenoch & Strathspey. **Officer Comment: The STL CA is not being 'trailed' in Ward 20, it is being advanced at the specific request of all Ward 20 Elected Members to address the acute issue of loss of full-time housing across the Ward.**
- Will the STL CA cover pods, cabins, huts and guesthouses. **Officer Comment: the STL CA only covers the loss of dwellinghouses to the secondary let market. Therefore pods, cabins and huts are not covered, and guesthouses are excluded if the owner/operator resides at the property.**
- STSL brings in more income than second homes and are a major employer locally. **Officer Comment: The advantages and disadvantages of STSL properties are wider than just the income they generate and as noted above the proposed policy is considered to establishes a balanced approach to the issues.**
- Welcome the STL CA and it should be rolled out across the whole Highland Council area. **Officer Comment: As noted above the STL CA is being advanced at the specific request of all Ward 20 Elected Members to address the acute issue of loss of full-time housing across the Ward.**
- The Policy should set a maximum percentage of STSL within an area. **Officer Comment: This approach was considered and dismissed by Officers and Members given the complexity of applying a percentage threshold policy across a large urban / rural area.**
- Policy is welcomed by too late. **Officer Comment: The STL CA is being advanced as soon has been practically possible following is enactment by Scottish Government.**
- The survey & policy is hard to understand and includes confusing terminology. **Officer Comment: The STSL market and legislative requirements are complex, which has required detailed terminology to be used. However the Consultation attempted to make it as easy as possible to respond to.**
- The Consultation includes no reference to the CNPA Partnership Plan, which includes a requirement to restrict "A maximum of 15% of all housing stock in the National Park will be second homes, vacant or short-term let properties by 2040." **Officer Comment: As noted above the use of a percentage policy was considered and dismissed by Officers and Members given the complexity of applying a percentage threshold policy across a large urban / rural area and whilst it is accepted that the CNPA Partnership Plan includes a maximum of 15% STSL across the entire park area, this does not alter the view that the proposed policy (as amended) establishes a balanced approach to the issue.**

Proposed Exceptions:		
<b>Refurbishment of a long-term empty dwellinghouse</b>	<b>Yes: 43</b>	<b>No: 9    No View: 3</b>
<ul style="list-style-type: none"> <li>• Allow Community groups the right to buy long-term empty houses</li> <li>• Only allow long-term empty if all other options have been first explored</li> <li>• Clear evidence should be provided to support</li> </ul>		
<p><b>Officer Comment:</b> Majority of respondents support this exception and therefore providing evidence is submitted confirming the property meets the 'long-term empty' definition (see below) it is recommended this exception remains as drafted.</p> <p>The suggestion that community groups are given the right to buy is outwith the scope of the STL legislation and planning system &amp; the suggestion that this approach is only used after the other exceptions would create an unworkable situation.</p>		
<b>Upper floor(s) above a commercial unit within a Town Centre</b>	<b>Yes: 39</b>	<b>No: 13    No View: 3</b>
<ul style="list-style-type: none"> <li>• Loss of accommodation in upper floors to STSL should be resisted – set a limit of 15% for this type</li> <li>• Only support for vacant/disused</li> </ul>		
<p><b>Officer Comment:</b> Again, a clear majority of respondents support this exception and again it is recommended this exception remains as drafted.</p> <p>Officers and Members discussed, at the workshop, the merits of having this exception only apply to vacant/disused properties, but it was agreed this would be unworkable and might result in owners making the property 'vacant' to utilise this exception.</p> <p>The utilisation of percentage thresholds was also discussed at the Members Workshop, and it was agreed that the time-resource and complexity required to continually monitor/calculate the current percentage made the use of a percentage unworkable.</p>		
<b>Dwelling with 4 or more bedrooms</b>	<b>Yes: 26</b>	<b>No: 26    No View: 3</b>
<ul style="list-style-type: none"> <li>• 4-bedroom limit will mean that operators will switch to larger "Party House"</li> <li>• Remove the 4-bedroom exception – should be down to suitability of the property / location not size</li> <li>• Bedrooms 3 or above seems reasonable / detached house</li> <li>• Still a demand for 4+ bedroom homes</li> <li>• Level moved to 5 or more and set a cap at 20%</li> <li>• Why limit when a property became 4-bedroom property</li> </ul>		
<p><b>Officer Comment:</b> The respondents were split equally on this exception, however the majority of responses against sought its reduction down to '3 or more bedrooms' rather than its deletion. Again, this issue was discussed at length at the Members Workshop, and it was agreed that the '4 or more bedrooms' struck the right balance and whilst the Council does not dispute that there is a demand for full time occupancy of larger properties across the Ward, it is recommended that the exception remains as drafted.</p>		

An established short-term secondary let (ESTL) property in a long-established dwellinghouse	Yes: 39 No: 16 No View: 1
<ul style="list-style-type: none"> <li>• ESTL in an overly complex measure</li> <li>• Object to the retrospective nature</li> </ul>	<b>Officer Comments:</b> Clear majority support this exception and whilst it is considered complex exceptions it is considered that it strikes a balanced approach and for these reasons it is recommended it remains as drafted.
<b>Any Missing Exceptions?</b>	Yes: 24 No: 13 No View: 12
<ul style="list-style-type: none"> <li>• Allow the change of use of other properties, e.g. empty commercial or agricultural properties. <b>Officer Comment:</b> The STL CA (and policy) only relates to the use of dwellinghouses, the conversion of non-domestic properties is supported under existing Local Development Plan policies.</li> <li>• Allow STSL within grounds of existing houses. <b>Officer Comment:</b> The STL CA (and policy) only relates to the use of dwellinghouses, the provision of pods, huts annexes etc. is supported under existing Local Development Plan policies</li> <li>• Add a new exception exempting all existing operators (and exempting them from the criteria list). <b>Officer Comment:</b> The use of existing STSL properties has been considered in detail and Members agreed that appropriate control should be applied to this part of the market and the exception above is considered to provide an appropriate approach to this.</li> <li>• Prevent former Council Houses being used for STSL. <b>Officer Comment:</b> This is beyond the scope of the legislation.</li> <li>• Set a criterion for 'party houses' to be a set distance from residential properties. <b>Officer Comment:</b> The criteria outlined below are designed to protect existing privacy and amenity.</li> <li>• Allow people with tied houses working within B&amp;S to STSL their own home. <b>Officer Comment:</b> Whilst this is an interesting concept, it would be difficult to manage and control and for these reasons is considered unworkable.</li> <li>• Seek no exceptions. <b>Officer Comment:</b> Whilst the Council is looking to control the number of STSL across Ward 20, it does recognise the importance of the market and for these reasons wishes to support appropriate STSL and the exceptions outlined is considered to result in a balanced approach.</li> <li>• Support the use of 3-bedroomed houses within Town Centres. <b>Officer Comment:</b> The exception related to 4-bedroomed houses is considered to be appropriate regardless of location.</li> </ul>	



Criteria			
<b>Use of Criteria outwith a CA:</b>	<b>Yes: 26</b>	<b>No: 23</b>	<b>No View: 6</b>
<ul style="list-style-type: none"> <li>• Case by case basis</li> <li>• Different criteria for urban &amp; rural areas</li> <li>• Use of criteria outwith B&amp;S inappropriate</li> <li>• Consistency across the Scotland</li> </ul>			
<b>Officer Comment: It will be for the decision-maker to determine the weight and appropriateness of each of the criteria for each submitted application and, as such, each will be based on a case-by-case basis.</b>			
<b>Close to public transport connections, or payment of a Developer Contribution</b>	<b>Yes: 22</b>	<b>No: 30</b>	<b>No View: 3</b>
<ul style="list-style-type: none"> <li>• What about rural properties / not appropriate</li> <li>• Seek a Developer Contribution wherever the property is located</li> <li>• Due to small profits unrealistic to expect STSL operators to pay a Developer Contribution</li> <li>• Public Transport is sparse across Ward 20</li> <li>• Or require an EV charging point</li> <li>• Reduce the distance to 400m – as per designing streets</li> <li>• Developer Contribution should not be optional</li> <li>• Unnecessary – as guest arrive by their own transport</li> </ul>			
<b>Officer Comment: The respondents are fairly split in terms of this criteria, with the majority against it. However, the Council is committed to addressing the Climate &amp; Ecological emergency</b>			
<b>Protection of neighbouring privacy and amenity</b>	<b>Yes: 41</b>	<b>No: 9</b>	<b>No View: 5</b>
<ul style="list-style-type: none"> <li>• What the difference between neighbours from hell and a STSL</li> <li>• Sometimes STSL make better neighbours</li> <li>• Most important criteria</li> <li>• STL Licensing already protects amenity / not necessary / not a planning matter</li> </ul>			
<b>Officer Comment: There is clear majority supporting this criterion and, as such, it is recommended to include the criteria as drafted.</b>			
<b>Storage of Waste</b>	<b>Yes: 47</b>	<b>No: 4</b>	<b>No View: 4</b>
<ul style="list-style-type: none"> <li>• This would not differ from normal residential properties</li> <li>• Commercial operator</li> </ul>			
<b>Officer Comment: There is clear majority supporting this criteria and as STSL operators are required to pay non-domestic rates, the operators can choose alternative waste collection frequencies and bin sizes it is considered appropriate to control this aspect; therefore it is recommended to include this criteria, as drafted.</b>			
<b>Sufficient parking provision</b>	<b>Yes: 45</b>	<b>No: 9</b>	<b>No View: 1</b>
<ul style="list-style-type: none"> <li>• Why only require this for STSL and not hotels?</li> </ul>			
<b>Officer Comment: There is clear majority supporting this criterion and, as such, it is recommended to include the criteria as drafted. With regards to new hotels, there is a separate parking requirement outlined in the Council Parking Standards.</b>			
<b>Are there any other criteria you think are missing?</b>	<b>Yes: 15</b>	<b>No: 19</b>	<b>No View: 13</b>

- Set an upper percentage of STSL within an area / Cumulative impact
- How are these criteria applicable in an area like B&S
- Evidence long-term tenants have not been evicted
- Consideration of access rights/shared access
- Check capacity of private foul drainage schemes
- Control on Light pollution

**Officer Comment:** A number of suggested additional criteria have been tabled, the majority are outwith the control of planning and/or would be unworkable and as such, no number criterion are proposed to be included.

6.8

Planning Conditions		
<ul style="list-style-type: none"> <li>• Case by case basis</li> <li>• No restrictions / conditions not appropriate / against Human Rights</li> <li>• Difficult to enforce</li> <li>• More information required before we can answer</li> </ul>		
<b>Restrict the life of the planning approval</b>	<b>Yes: 20</b>	<b>No: 31   No View: 3</b>
<ul style="list-style-type: none"> <li>• Allows property to come back into full-time use easier</li> <li>• Timeframe must be sufficient to allow capital outlay</li> <li>• Just creates greater red tape</li> <li>• Support</li> <li>• STSL operators need support not further burdens</li> </ul>		
<b>Officer Comment:</b> There is clear majority against the use of this condition, and it is accepted that it use could create greater uncertainty and expense for STSL operators. Therefore, rather than removing it completely, it is recommended that it is only used in exceptional circumstances.		
<b>Prevent alterations to the property</b>	<b>Yes: 19</b>	<b>No: 33   No View: 2</b>
<ul style="list-style-type: none"> <li>• Support</li> </ul>		
<b>Officer Comment:</b> There is clear majority against the use of this condition, and it is accepted that this could be difficult to control. Therefore, rather than removing it completely, it is recommended that it is only used in exceptional circumstances.		
<b>Restrict the use of external areas</b>	<b>Yes: 24</b>	<b>No: 25   No View: 5</b>
<ul style="list-style-type: none"> <li>• Depends on context and proximity to residents</li> <li>• Laws in place dealing with this</li> <li>• external attractions such as hot tubs, BBQ, sauna, games rooms etc. have a disproportionate effect on amenity for surrounding properties.</li> </ul>		
<b>Officer Comment:</b> There is clear majority against the use of this condition, and it is accepted that this could be difficult to control. Therefore, rather than removing it completely, it is recommended that it is only used in exceptional circumstances.		

Definitions:	
<b>dwellinghouse</b>	<b>Yes: 43 No: 2 No View: 8</b>
<ul style="list-style-type: none"> <li>No comments</li> </ul>	
<b>Officer Comment: Clear support for the use of this definition.</b>	
<b>short-term let</b>	<b>Yes: 41 No: 2 No View: 10</b>
<ul style="list-style-type: none"> <li>Miss leading term – should refer to holiday lets</li> </ul>	
<b>Officer Comment: Clear support for the use of this definition, the use of ‘short-term lets’ is standard across the industry.</b>	
<b>secondary let</b>	<b>Yes: 42 No: 3 No View: 9</b>
<ul style="list-style-type: none"> <li>No comments</li> </ul>	
<b>Officer Comment: Clear support for the use of this definition.</b>	
<b>control area</b>	<b>Yes: 42 No: 2 No View: 10</b>
<ul style="list-style-type: none"> <li>No comments</li> </ul>	
<b>Officer Comment: Clear support for the use of this definition.</b>	
<b>long-term empty</b>	<b>Yes: 37 No: 6 No View: 10</b>
<ul style="list-style-type: none"> <li>Should mean unfit for human habitation or derelict</li> <li>2 years is too short – 10years would be better</li> </ul>	
<b>Officer Comment: Clear support for the use of this definition. The use of the 2year period brings the policy into line with the Council Tax legislation and for these reasons is considered appropriate.</b>	
<b>bedroom</b>	<b>Yes: 38 No: 5 No View: 10</b>
<ul style="list-style-type: none"> <li>How will lounges with sofa beds be considered.</li> <li>How will properties of character with small bedrooms be considered</li> <li>Definition appears to be based on the HMO legislation – not appropriate</li> </ul>	
<b>Officer Comment: Clear support for the use of this definition. The size requirements are taken from the Building Standards and relate to the minimum size of a single room only and, as such rooms smaller than the stated size are considered inappropriate for inclusion.</b>	
<b>The use of sofa beds within communal space are not part of the number of bedroom calculation.</b>	
<b>established short-term secondary let property</b>	<b>Yes: 35 No: 12 No View: 7</b>
<ul style="list-style-type: none"> <li>Provide a calendar date as too hard to understand</li> <li>The proposed date is at odds with licensing, and this should be used instead (1<sup>st</sup> Oct 2022)</li> <li>Should include / be based on frequency of use (at least 50% of the year)</li> <li>Should be based on the establishment date of the STL CA</li> </ul>	
<b>Officer Comment: A mixed response to this definition, but still a majority in favour. As Members will be aware considerable discussion on this exception has been held between Officers &amp; Members and the proposed definition is considered to create a balanced approach to the existing short-term secondary let properties.</b>	
<b>long-established dwellinghouse</b>	<b>Yes: 35 No: 6 No View: 11</b>
<ul style="list-style-type: none"> <li>Clearer definition on long-established is required.</li> </ul>	

**Officer Comment: Clear support for the use of this definition, which is based on the date established through the Council Tax legislation.**

**Missing Definitions**

- No definition of 'active travel link' **Officer Comment: Agreed, new definition to be included**

- 6.10 **Note.** In terms of the above numbers of respondents to each question, these differ to the overall number of responses as the calculation was only done on responses which included a direct response to the specific question. If it was left blank or did not answer the question it was not included in the calculation; however the relevant comments have been attributed to the relevant section.
- 6.11 As expected, a number of differing views and comments have been put forward, all of which have been considered and has led to a number of amendments to the finalised policy, as shown in **Appendix 3**.
- 6.12 Based on these amendments, Members are asked to approve the Short-term Secondary Let Non-Statutory Planning Policy for use in the determination of applications for Short-term Secondary Lets immediately following this meeting.

Designation: Executive Chief Officer Infrastructure & Environment

Date: 31 March 2023

Authors: Matthew Hilton, Planning Officer / Urban Designer

Background Papers: **Appendix 1** – Letter from Scottish Ministers approving the establishment of a Short-Term Let Control Area for Ward 20 (Badenoch and Strathspey)

**Appendix 2** – Summarised Consultation Responses

**Appendix 3** – Updated STSL Non-statutory Planning Policy



E: [planning.decisions@gov.scot](mailto:planning.decisions@gov.scot)

Matthew Hilton  
Planner / Urban Designer  
The Highland Council

By email only to:  
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Our ref: STL-270-001

20 December 2022

Dear Matthew Hilton

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997  
TOWN AND COUNTRY PLANNING (SHORT-TERM LET CONTROL AREAS)  
(SCOTLAND) REGULATIONS 2021: REGULATIONS 3 AND 8  
PROPOSED WARD 20 (BADENOCH AND STRATHSPEY) SHORT-TERM LET  
CONTROL AREA**

I refer to your email of 11 August 2022 seeking the approval of Scottish Ministers to designate Ward 20 (Badenoch & Strathspey) of Highland Council area as a Short-term Let Control Area under the terms of the above Regulations.

**Scottish Ministers' Decision**

Scottish Ministers have carefully considered all the evidence presented to them including the Council's Statement of Reasons for the designation and the relevant committee and council meeting reports and minutes.

Circular 1/2021: Establishing a Short-term Let Control Area states that in considering a proposal for a control area, Ministers will seek assurance that the planning authority has:

- a) taken reasonable steps to raise awareness in the proposed control area(s) and consulted appropriately;
- b) taken account of the views expressed in consultation and considered this with any other relevant evidence; and
- c) come to a reasoned decision as set out in the accompanying statement.

Ministers consider that these points have all been satisfied by the planning authority. The planning authority proposes to designate the control area in order to manage high concentrations of short term lets across the ward, ensure homes and land are used to best effect, and control secondary letting of dwellinghouses to protect neighbouring residential amenity. Ministers consider that these are valid reasons to propose the



designation, and conclude that the proposed designation would be justified and reasonable.

The Town and Country Planning (Short-term Let Control Areas) (Scotland) Regulations 2021<sup>i</sup>, read with section 26B(3) of the Town and Country Planning (Scotland) Act 1997 (“the Act”) set out when a short term let is provided.

A change of use of a dwellinghouse to a short-term let after the designation of the control area will be deemed to be a material change of use by virtue of section 26B of the Act.

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.

Following the submission of the Council’s request to Ministers, further correspondence has been received from Shepherd & Wedderburn on behalf of Airbnb. Ministers have taken this correspondence into account in this decision on the proposed designation. The correspondence does not alter Ministers’ view that the proposed designation of the STLCA is justified and reasonable.

Accordingly and on the above basis, Scottish Ministers hereby approve the proposed designation of Highland Council Ward 20 (Badenoch & Strathspey) as a Short-Term Let Control Area.

### **Subsequent Procedures**

Before designating the short-term let control area, the planning authority must publish notice of the designation in accordance with Regulation 9 of the above Regulations.

Yours sincerely

**Helen Wood**  
**Assistant Chief Planner**

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<sup>i</sup> SSI 2021/154, as amended by the Town and Country Planning (Short-term Let Control Areas) (Scotland) Amendment Regulations 2022 (SSI 2022/33).

## Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Exceptions?
1	
2	If it is a family or a persons sole income they should be granted permission
3	Second homes available as STL which will now sit empty/unused for long periods instead. This wont stop second homes. Build more homes for local people. Dont restrict visitor accommodation. Enable Scottish people to live locally and to holiday affordably in their ain country - neither of these is happening at the moment.
4	The 4 bedroom limit will mean that operators will switch to larger "Party House" properties which give proportionally much greater local nuisance. This should be removed.
5	If a property has been on the market at a reasonable price for a period of time and theres little or no probable demand then they should be legible for short term let
6	
7	Bedrooms 3 or above seems reasonable
8	If people who had built houses was knowing the government would take away their rights how to use their own houses, no one would build the houses. "secondary let", "control area", these words shouldn't exist, some times, income from only one let, even can't afford the heating.the government shouldn't control the only green industry-tourism, it can produce a lot of job chances, the people who have to rent their accommodation at least can find a job related to the tourism industry. if the industry was curbed, they might find cheaper accommodation, but more people lose their job, and more people lose their income.
10	Change of use from other types of empty properties, eg empty commercial or agricultural properties.
11	Property within the grounds of existing properties where the title deeds are not split.
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17	The exception I'd suggest is missing is for those living in accommodation tied to their employment at the time of the planning application being submitted (for example minister in a manse, as I am, or armed forces, or others). It is increasingly necessary for those living in tied accommodation to acquire their own property before we have the opportunity to live in it. Whilst agreeing with the 4 or more bedroom rule and seeing the sense in it, often those in tied accommodation employment will not be able to afford that (we cannot, we have a 2 bedroom house in Badenoch & Strathspey). Whilst it is possible under new landlord legislation for us to rent the property out as a tenancy, not everybody in tied accommodation may be able to work with the 12 week notice period that is required for asking tenants to leave in order that the landlord can live in the property. Where those of us in tied accommodation own a property in a control area that is in fact our only property, I'd appeal for an exception that allows us to rent it out with the flexibility that short term lets allow, for the variable circumstances of those living in tied accommodation.
18	- The community (council, housing associations, buyouts, people seeking long term housing) should be given first refusal on long term empty properties and those with 4 bedrooms or more. If long term empty dwellinghouses are refurbished to create short term lets, they will likely be refurbished in a way that will only ever be suitable for short term rental use, leaving little chance of them ever being reverted to long term housing. - Upper floors above commercial units suffer all the same issues with privacy and amenities as other flats, and should not be considered separately. Also they're often the lowest price housing options available on the market, so allowing them to be used for short term rentals will disproportionately impact lower income and local first time buyers. These should be limited in number and not exempted. - Established short term rentals should not be excepted, long term housing must take priority over short term lets.

## Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Exceptions?
19	I agree that refurbishment of long-term empty properties is beneficial to the area (Struan House). However, refurbishment/dwelling with 4 or more bedrooms/established: could all mean a dwelling has been refurbished/secondary let and is now being used for letting to larger numbers of people (4 bedrooms) - hen/stag parties which create noise pollution quite often in previously quiet rural areas. In the case of upper floor dwelling, in the first instance this could quite easily be an affordable property for a local person to purchase but, failing that, it would be a more suitable area for a let as a Town Centre would be a noisier environment and more able to absorb the disturbance.
20	Badenoch and Strathspey rely on good quality self catering accommodation - tourism is the only real industry in an impoverished part of Scotland. Take away any of the ability to provide bed spaces for tourists and it will act only as self harm to the poorest in the local community that rely on tourism for their income. If local affordable housing is required the local council and Scottish administration should build more housing and place covenants on their use i.e. for locals only.
21	
22	Other options must be looked at for larger properties, there are only a few properties available for larger families so community or Local authority buying of properties with 4 or more bedrooms should always be explored first. There must be controls on the number of properties above commercial units in our streets, these properties can be homes for people and bring life back into our streets.
23	The stated aim is to ensure a supply of affordable housing and a threshold of 4 bedrooms has been proposed. This seems too high. While a 4 bedroom house will be beyond the scope of those who are looking for affordable housing, I suggest that a detached 3-bedroom house is likewise beyond their means. In my experience the largest house that would fit into this category would be a 3 bedroom terraced house or at the very most a 3 bedroom semi-detached house.
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28	There is no supporting data that STL properties will revert or become affordable rentals if denied planning. If a property was once a council house then it clearly shouldn't be an STL. The amount of bedrooms should have no bearing on the decision. It would effectively provide for the rich and wipe out small family vacations.
29	We agree with the list of proposed exemptions. In order to ensure that established short-term let operators are not retrospectively penalised by being refused permission for continuing activity which was lawful at the time the Control Area came into effect, we also propose that the fourth exemption should override the need to meet the new criteria introduced through this guidance document. This would reflect the fact that no current residential accommodation would be lost to short-term letting activity by a presumption in favour of approval of existing lets. An additional exemption should apply where the residential property is a second home, and would only be used for short-term letting for a limited part of the year. The justification for this is that the property in question would not be otherwise available for use as a primary residence were it not being used for short-term letting activity, since it would otherwise be occupied by the owner or sit empty for the time in which STL activity would occur. There would therefore be no loss of residential property which would be avoided if permission were not to be granted, while the use of the second home to accommodate tourism use will have economic benefits for the area, without having any additional detrimental effect on the housing land supply.
30	
31	All I can say is this control area is the most outrageous legislation I have ever witnessed. Akin to some Totalitarian state control where government tell you what you can do or not with your property, it stinks. We fought world wars to stop this kind of state control and all your efforts will be a waste of time as it will have a negative impact on tourism. How a few independent Councillors have the power to impose this on people beats me.
33	



## Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Exceptions?
34	Properties that have been refurbished between 2nd Dec 21 and Oct 22 will be these be granted planning permission? An established short term let property has been defined by yourselves as trading before 2nd Dec 2021. However you did not make any reference to this date until you published the planning criteria at the end of 2022. How were business established after 2nd Dec 2021 and before the licence deadline of October 2022 supposed to know that they would likely not be able to get planning permission? I also think in your criteria that you have made no reference to the current affordable housing stock that is currently a holiday let. Ex council houses for example.
35	It is an established short-term secondary let property OR in a long-established dwellinghouse. The implication is that both conditions apply. However the definition of 'long established' is completed prior to 6 December 2017. That seems unfair as many businesses already trading are in buildings completed after 2017. Surely a more relevant date would be 1 September 2023 which is the deadline for STL applications. Preference would be just to have just 'An established short-term secondary let property' and perhaps qualify the number of years.
36	All of the above proposed exceptions could be brilliant homes for single workers, co-housing arrangements or family homes. Perhaps there should be no exceptions, surely it is about the Planning Authority deciding on what an appropriate mix is within the area. For flats above shops in a town centre it may be that 7 out of ten could be for holiday lets and 3 for long-term lets. For STL applicants it would be 'first come first serve'.
37	
38	Houses with 4 bedrooms are ideal for families. This criteria should perhaps be set to 5 bedrooms.
39	Dwellings over 4 bedrooms should be more than 4/500m away from an existing residential home because of the very high likelihood of noise/disturbance. By their nature these businesses will market themselves to attract multiple households for family gatherings, celebratory events, stag, hen and even "Sten" parties. As such there should be a presumption that these properties will not get a licence if within 500m of a residential home. Planning seems to think of noise and disturbance as a particular issue in urban settings, whilst this can and is the case, it is equally or more of an issue in rural settings. In rural spaces there is often near silence - one of the attractions for many people when choosing to live there, when noise is introduced as it will be with a multiple household property(4+ bedrooms) this has a significant impact on local residents, increasing stress and disturbance. This is heightened when that noise is uncontrolled - not knowing when the noise will start and in the case of a celebration property when and if it will end - late at night when noise travels even more. When alcohol is added to the equation the issue of noise becomes even more acute in these rural locations. Outside Hot Tubs further add to the issue. In normal circumstances neighbours would be expected to ask noisy people to keep the noise down before making complaints to environmental control or the police - when the people making the noise change from day to day and week and they are literally strangers, and they have been drinking - this can be very intimidating for the local resident. All of this increases stress for the local resident so a distance criteria should be added. Upper floors above commercial property. This should be a prime location for cheaper residential use - an entry level option for first time renters/young people/students. This should not be assumed to be ideal for STLs
40	The definition of long-established is not clear in the question. If relating to a certificate of lawfulness the qualifying period should be reduced to 5 years. Planning permission should not be required where a CoL has been issued for any property type.
41	

## Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Exceptions?
42	<p>You need to address the positive issue of local people who live and work here and contribute to the economy and are doing so by running a STL business. For example, we live in Carrbridge in a tied house that goes with my husband's job. We have chosen to STL our own home (also in Carrbridge) as an income for our family, and contributing to the economy, while we cannot live in it. It is being run as my business and is my job. This policy risks making me "unemployed" if planning permission were not granted. There needs to be recognition and/or exemption for this type of situation. If we were refused planning permission the house (which has 4 bedrooms) would remain empty as we may need to return to the property at short notice which we cannot do if we have rented it out long term. I also think that the number of bedrooms should NOT be a consideration. Whether or not a STL is granted planning permission should come down to the suitability of the property and the location. Holiday makers may be looking for a 2 bedroom cottage to rent? There will be more people looking for smaller STLs than larger ones. And in my opinion, it is the larger "party" houses that are a nuisance.</p>
43	<p>Where do ecopods fit in the scheme as they often only have one bedroom? They are popular with tourists but too small for a long term let. I would say a dwelling with 3 or more bedrooms.</p>
44	<p>Minimum of four bedrooms makes no absolutely sense when viewed from perspective of tourists visiting the B and S ward. Not every guest making a short term let reservation in the area will require a large 4-bedroom property. This will make holidays in general more expensive for smaller families. Heating and Cleaning costs are significantly larger for 4+ bedroom properties creating larger overheads for operators. You are actively promoting large groups with this. For smaller families and groups this creates a gap between hotel accommodation and the larger short term let. Many groups (even smaller groups like a Mum, Dad &amp; two kids family) come to the area for outdoor pursuits where equipment is required, pets stay and domestic facilities are used - eg washing/drying dirty outdoor equipment. This is not practical in a hotel room. The solution to the highland council's strategy to increase the supply of housing is not to kill the economy in Badenoch and Strathspey. The council needs to release more land and provide council housing. New housing developments built in the last few years have already had at least 25% of the development identified and sold as affordable housing to provide additional housing. I disagree that the property should be a long-established dwelling house based on the consultation definition. Exceptions missing. I would put forward that established short term let properties that were operating before both of below dates should be granted permission - operating before the original council meeting to pursue a B and S Planning Control zone (9 September 2021) - operating before 1st October 2022 which under the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 and as such classify as an existing operator.</p>
45	
46	<p>Another exemption should also be part of an existing dwelling that would not otherwise be let</p>
47	<p>Question 1: We do not agree with the suggested exemptions, except in very particular situations, see details below. Refurbishment of a long-term empty dwelling house: this exception will only be considered if all other options of bringing long-term empty dwellinghouse back into long term residential use have been exhausted, and if the community is consulted before approval is granted for the property to be granted planning permission to be converted to a short term let. Instead of "long term empty", the regulation should change its wording to say that there is clear evidence (bills, council tax receipts, tenancy agreements) that the property has been empty for 2 years, with no offer of purchase to become a permanent home or offer to rent it out from the community ("first right of refusal"). Furthermore, the refurbishment should meet the same standards as a private residential tenancy, in order to ensure the possibility of its return to long-term residential tenancy. The proposal is for the upper floor(s) above a commercial unit within a defined Town Centre. This exception should be limited in order to preserve residents' ability to stay in their town centres. Town centre homes provide important long-term residential housing, that is close to important services and amenities. There should be no more than 15% of all qualifying units in the town centre granted planning permission to be a short-term let. The proposal relates to a dwellinghouse with no fewer than four bedrooms, as the dwellinghouse existed at the date of the establishment of a short-term let Control Area or as originally built. Demand for 4 bedroom houses exceeds supply in every single town across the Highlands. As a result, this exception should only be considered if there are no houses with fewer than 5 bedrooms that are granted permission, and that the number of 5 or over bedroom properties granted permission is capped at 20% percentage of relevant properties.</p>
48	<p>Whilst dwellings with 4 or more bedrooms are not the obvious focus when trying to address the current housing shortage, larger dwellings can have a role to play if imaginative ownership models are available. More significantly, larger STLs so-called party or celebration houses are already causing significant detrimental impact in a number of settings, notably small clusters of homes in rural areas and residential areas of towns and villages. For this reason, dwelling-houses with 4 or more bedrooms must not be considered 'easy' developments with automatic exception and the planning criteria below will assume even greater importance in controlling the steadily rising numbers of such STLs in many areas.</p>
49	<p>Local families who own property and have to move away but are unable to sell their property due to new short-term regulations impacting ability to sell</p>
50	<p>If the property is in a spot where there's a desperate shortage of places for holiday makers to stay</p>

## Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Exceptions?
	<p>â€œRelates to a dwelling house with no fewer than four bedrooms, as the dwelling house existed at the date of establishment of a short term let Control Area or as originally builtâ€ - It should be irrelevant when the house became a 4 bedroom dwelling. Planning permission should be granted for a dwelling house no fewer than four bedrooms at the time of applying for a STL license. â€An established short-term secondary let property in a long-established dwellinghouseâ€ - disagree to this exclusion, as I disagree with the definitions used here. Please see the definition section. An established short term let property should be one which has been trading as such before the establishment and implementation of a short term let control area, not â€ the first date of the first approval at a Council Committee meeting proposing the establishment of a short-term let Control Area for that locationâ€™. This is utterly confusing. No rules were outlined and approved at the time of this meeting that proposed the STL control area. It was only a proposal and there was only speculation as to what this would entail. Homeowners believed that this would be a way of Highland Council knowing how many short term let properties there are, and not a way of dictating to existing homeowners how they can use their property. No homeowner should be forced to make decisions about their property or homeownership based on a vague proposal. This has no merit. It insults individuals who through hard work invested in a second home. It also disregards respect for peopleâ€™s financial situation by backdating rules that didnâ€™t even exist at the time that the Council wishes to instate them. This sounds like freedom in the real estate market is being stripped, and the Human Right , Fundamental Rights, Right to property, is being corroded. Retrospective dating of restrictive rules is not right, just or humane. In this case, doing so can be detrimental to individuals or entire families, placing their property investment at risk, and threatening to precipitate a mental health crisis. Fairness and equality has to exist for everyone involved here, including for the people who were already homeowners of a variety of styles of short term let accommodations, prior to the approval of any proposed rules or of finalising any policies regarding short term let licenses. This is especially true for newcomers to the property market who at the time of purchase of their home had no knowledge of any potential restricting rules governing the use of their home. This would be placing people in an unfair risk to their investment, including local residents who have recently purchased their homes. If rules and planning policies are to be established, they should be applicable from a prospective date (giving fair advanced warning when they will come into effect) and not punish those who have short term let their property prior to the establishment and implementation of this proposal. Thus the use of a â€long term dwelling houseâ€™ is irrelevant - see definitions. Missing Exemption: Consideration to grant planning permission to all styles of properties , including dwellings that are 3 beds or fewer, that are within a town centre and walking distance of public transport. This would make self catering accommodation inclusive to guests who do not have their own transport. Having pedestrian visitors in a town centre would benefit many local businesses and economy. In many other resort towns in the world, the town centre is reliant on tourism and holiday makers. Restricting the holiday let sector should not be a solution to the local housing crisis. There is no evidence that this would benefit the local people and economy, and the local people need tourists to make their living. The solution to the local housing crisis should not be to punish people who already own their (second) homes and are actually contributing in a positive way to the local rural economy by bringing in much needed tourism by short term letting.</p>
52	There should be a maximum percentage of housing within the control area of 5% short term lets and secondary lets.
53	
54	I think there should be a maximum number say 5% of short term secondary let properties in a controlled short term secondary letting area
55	<p>We have concerns that â€An established short-term secondary let property in a long-established dwellinghouseâ€ is overly complex in nature. Instead of a â€longstanding dwellinghouseâ€, the exception could be for a dwellinghouse.</p>

Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Exceptions?
56	Given the importance of tourism and particularly the provision of high quality accommodation, it is essential that the exemptions relating to a) larger ie 4 bedroom and b) established short term let accommodation are maintained. The larger properties attract more, higher value clients and therefore net benefit to the wider economy in terms of spend, and established short term let accommodation attract return visitors who have confidence in the accommodation and the area.

## Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Criteria?
1	
2	What is the difference between having a family from hell living next door or the occasional short term nightmare,, the short term nightmare is exactly that, we have no control in normal circumstances over our neighbours beyond moving house
3	
4	There should be some measures to prevent the creation of STL clusters. For example, the Allt Mor estate in Aviemore is 50% STL property, making the area a holiday camp instead of a residential area. This creates very poor conditions for full time residents. Limits such as "no more than 1 in 3 contiguous properties to be an STL" might be considered.
5	
6	
7	
8	About protection of neighbouring privacy and amenity, it is difficult to tell, I don't mind my neighbor rent their accommodation for the short term, but I do mind if they rent to a long-term tenant who is nasty because you can't ask them to leave, I prefer they change their house into a holiday rental, even if the guests are nasty, they only stay for a few days.
10	Parking: Lots of hotels do not have sufficient parking, why are they not to be shut down?
11	
12	No consideration of rural properties which are not connected to public transport or active travel but sought after for all their natural attributes including wildlife. Consideration should be given to those established 15yrs+ and be exempt. These were small rural businesses that existed before Airbnb and the likes and thus should not be penalised for the current market trends
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18	A developer contribution for local transport and community development should be sought regardless of the location of the property. If short term lets are required to be near public transport links, that pushes long term residents into areas lacking those connections. Short term lets should support the communities where they are located, not displace them.

## Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Criteria?
19	Neighbour privacy and amenity should be extremely high on the priority list. Drumullie is currently about 50% holiday/second homes, some of these are large party houses which result in no consideration of the impact that the holiday makers have on the surrounding environment. We know of one household who moved away from the area and another who is considering moving away because these houses are impacting extremely detrimentally on their mental health. They contribute very little to the local economy as their online shopping is delivered on arrival day and they spend all their time at the property (alcohol fuelled in hot tubs especially) until their departure day. Not interested in the environment around them at all.
20	This sort of criteria is only really applicable for busy urban areas such as the centre of Edinburgh. I am not sure of its relevance in rural, Highland areas.
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22	
23	Given the small margins associated with short term letting, and the costs associated with licensing and planning, it is unrealistic to expect owners to make a developer contribution.
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28	Active travel assumes the owner of STL to be rich enough or make vast profit. The truth is very different and it can take years to make profit on a business. The stringent STL licence conditions already protect neighbours so why is another test necessary.
29	Criteria 1 is not appropriate given that many properties located in visitor destinations within the council area will not be within the 800 metre threshold (which is a national standard, rather than a local standard applicable to the unique character of the Highland Council area in question). Many dedicated holiday rentals, particularly large ones (which the council acknowledges in its list exceptions as being more suited for use as STLs) may be in a very rural location, and this criteria would exclude those types of properties which form an important part of the Highland's tourism offer. A developer contribution would not be appropriate in circumstances where the property is beyond the 800 metre threshold since it does not appear to relate to mitigating the impact of the development in question, and furthermore is likely to impose disproportionate financial consequences on the proposed operator of the property. It would apply the principle of developer contributions to operators of short-term lets seeking permission to continue existing activity, often in small premises and which are usually run as small businesses, to major housebuilders and infrastructure developments. The second sentence in Criterion 2 is also not appropriate. It is unnecessary since it appears to address the question of residential amenity impact (something that is covered comprehensively by the first sentence) and is also a conflict with the Council's apparent encouragement of development of flatted units above commercial units within a defined town centre (see Criterion 2 in the proposed exceptions above).
30	I feel that active travel and transport are issues separate from STL control if the aim is to free up housing stock for local families.
31	Total madness, meddling to what end, have you all gone mad? It is local authority turning into some communist state.
33	Visitors are going to come to the UK's largest National Park. Transport connections are sparse, and ill defined in Badenoch and Strathspey. This sense of space, independence and perhaps isolation is precisely what is desired by visitors. Perhaps you should require a charging point rather than a bus route contribution!! Absent measures for active travel are a different issue. They should not be paired up with a perceived short term let owners potential responsibilities. These networks need to be self supporting for all elements of our communities, resident or visitor alike...

## Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Criteria?
34	Being less then 800m from public transport is laughable in the Highlands which probably has the worst public transport infrastructure in the whole of the UK. I would support this criteria if there is evidence of the projects that the funds are going to support.
35	In rural Highland the requirement to be within 800m of public transport connections is ridiculous! No definition is given of 'active travel link'. Could the provision not be better worded as 'The site must have adequate vehicular access'. Some older buildings in rural town centres (e.g. Dornoch) do not have parking provision as detailed above for 'new developments'. Could wording not be improved to 'for older buildings the parking arrangements e.g. on road, public car parks must be identified and agreed'. Whilst accepting that flatted properties may be a problem in larger town centres, a blanket ban seems inappropriate. For example Royal Golf Apartments in Dornoch were build as self catering and are adjacent to a hotel.
36	Promoting active travel is welcome, but many come to holiday in rural areas for the remoteness. It is more important that long-term homes are well serviced by sustainable travel options. Again it is about understanding the provision, the demand and getting the balance of options available to the holiday market.
37	
38	see attached document. Missing is the link between proximity to public transport and consequent reduction in parking provision.
39	Waste storeage - some comment on management of waste- eg how will bins be placed at road/Kerbside (expectation of guests is not acceptable) Access for more rural locations should be solely owned/used by the proprty if it is over 4 bedrooms. There should be an impact assessment where these large celebration properties are accessed by a "track" off of mains A roads - eg A96. A 6 bedroom property is likely to have at least 6 cars, all new to the area and all not fully aware of the dangers of the local area. The traffic journeys created by a holiday makers is more significant than that of a resident - they will be making multiple more journeys in multiple more vehicles to visit attractions, restaurants etc etc. There should also be an assumption that there is access to a path to the closest village if the house is within 2 miles of a village that has shops - or a developer contribution.
40	Self-catering is often in rural or remote areas. Requirements for public transport connections are unrealistic and unreasonable. These aren't in place for residents in many areas so it is unreasonable to apply this to STLs. Applications should be taken on merit. If there have been no formal complaints to Police Scotland or Highland Council in an area where STLs operate it cannot be assumed that there is likely to be issues in the future and therefore a presumption to deny STLs operating in area. Storage of waste should not differ from that required by residents. Requirements are already in place for properties on non-domestic rates. Parking requirements should not be any different for any property as determined by planning regulkations.
41	

## Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Criteria?
42	While I totally agree that close to transport links is important I don't think it is fair to ask for a developer contribution in a retrospective application. This should only apply to new builds, as per planning policy at the moment in relation to new housing.
43	The 800m close to public transport is a nonsense when communities like Glentruim have no public transport and Laggan has virtually none. Why should we have to pay a developer contribution when we already pay tax and the people already close to public transport never had to pay?
44	Waste from guests staying in short term lets is likely to be no worse than an equivalent family residing at the property. Indeed " with slacker winter months in B and S Ward short term let waste could actually be less than that of permanent residents. Responsible operators will appoint and pay a commercial operator for waste management. Our experience is that our appointed contractor will retrieve, empty and replace bins from designated bin area " avoiding any issue with bins being left out on street, or not emptied. Our collection scheduling for general and dry mixed recycling can (if required) exceed the equivalent collection frequency provided by Highland Council. Mandatory food waste collection weekly and provision of a recycling glass bin from our property exceeds the service provided by Highland Council.
45	Criteria missing should include proof from the applicant that any previous tenants of the property has not been evicted using the grounds 3, 4, 5, 6, 7, and 16, 17 and 18 within the last 2 years.
46	
47	Additionally, we believe that the cumulative impact of short-term let properties in an area should be examined at the determination stage. This means that all proposals by developers should provide evidence regarding currently operational short-term let properties in a 10km radius to demonstrate that any new short-term let property will not have a detrimental effect. Additionally, developers should prove that these properties were not properties where tenants have been evicted under grounds 3, 4, 5, 6, 7, and 16, 17 and 18 within the last 2 years.
48	Missing criteria include roads access/ safety and proximity. Within rural settings, especially in developments with a small cluster of homes, the STL house and access should be fully and entirely owned by the applicant. Shared access in rural settings is often already complex and becomes potentially unsafe if it is to be heavily used by people unfamiliar with the area, the traffic and the impact of adverse weather. Given the public nuisance already associated with large STLs (so-called party or celebration houses), criteria concerning a minimum distance between the STL property and neighbouring homes should be considered. In our experience, noise from an STL around 500m away can be tolerated in day to day life; noise from an STL 50m or less away causes significant distress and damage to quality of life.
49	For existing short-term let owners their neighbours should be consulted as to whether it creates an issue for the local area. Most properties cause no issue at all however some landlords are hopeless and their guests create issues with rubbish and recycling being misused then not collected as well as antisocial behaviour
50	Some holiday makers want to stay in very remote rural areas where public transport is more than 800m away. People should be able to choose this option



## Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Criteria?
	<p>The above points are discriminatory for the short term let sector. Being close to public transport is unnecessary, as guests will arrange their own travel, especially to remote areas. This is part of a unique tourist experience. Though there should be consideration to grant planning permission to all styles of properties that are within walking distance of public transport, to be inclusive of guests who do not have their own transport. â€œProtection of neighboring privacy and amenityâ€. This should not be a planning matter. Also, it cannot be assumed that there is a detrimental effect from short term lets. As Brodies LLPâ€™s legal opinion for the ASSC states that users of a self catering property are â€œunlikely to exhibit markedly different characteristics to more permanent residence.â€ â€œStorage of wasteâ€ Secondary let properties are the same as residential properties and should be treated the same. Dwellinghouses already have designated parking provision thus this is irrelevant.</p>
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55	<p>Overall, we are confused as to the policy intention behind these criteria and the justification for them given they donâ€™t apply to other rental sectors. â€œClose to public transport connections, or payment of a Developer Contribution.â€ Self-catering accommodation is often located in remote places and so guests will usually travel using their own means to stay in the property. Therefore it seems unfair to require payment of a â€œdeveloper contributionâ€, another cost for small businesses during challenging economic times when other tourist accommodation providers donâ€™t have to pay it. â€œThe proposal avoids creating an unacceptable detrimental impact on the privacy, amenity and character of the location and established uses. The Council will generally not support the change of use of flatted properties to the short-term secondary let sector due to the potential adverse impact on residential amenity.â€ We are confused as to the basis on which the assumption is made that secondary lets cause an adverse impact on residential amenity. Is there any evidence that the secondary let sector causes an adverse impact on residential amenity in the Highlands more than long term lets? Where e.g. any anti-social behaviour or noise is made by short term lets or long term lets or any other resident, there is legislation in place to address that. â€œSufficient commercial waste storage space is provided within the curtilage of the short-term secondary let property and consideration is given to the location of the collection point for this waste, to the satisfaction of the Council Waste Management Team.â€ We are confused as to the need for commercial waste storage for short term lets when the same isnâ€™t required of long term lets. Secondary let properties are the same as residential properties in terms of waste management and amount of waste produced. â€œParking provision is in accordance with the "Residential Parking Standards" as set out in the Council "Road &amp; Transport Guidelines for New Developments".â€ Given all, if not nearly all, short term lets in the Badenoch and Strathspey area have parking available it seems an unnecessary bureaucratic burden to require owners to consult the Councilâ€™s "Road &amp; Transport Guidelines for New Developments".</p>

Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Criteria?
56	Given the relatively poor provision of public transport provision in the Highlands generally in comparison with other regions of Scotland, the 800m stipulation is an inappropriate restriction and can potentially lead to a loss of quality, attractive accommodation for the tourist market.

## Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Use of criteria?
1	I feel these criteria need to be applied on a case by case basis where a property is outwith an area of high concentration of STLs, or where the property is remote.
2	In the rural highlands there should be a different rule regarding nieghbours since many properties have none, or they are distant
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4	If you do not apply the criteria across the full Highland Council area, the problem will just shift to outside the Control Area. For areas within the CNP, it will be impossible to meet the 15% target for holiday and STL properties (See CNPA Partnership Plan) by 2040 if there is no restriction on the growth of STL. How can HC meet that target when Badenoch and Strathspey already have 21% STLs according to HC data? In addition, only 1 in 3 of current change of use planning applications for STLs have previously been identified by HC, suggesting the problem is actually much more prevalant than 21%.
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8	I agree with the license, I like to do some financial contribution to the Scottish government as long as I have income, so the government should give people licenses as long as they meet the safety requirements, and the holiday rental is my only income because I am living far from anywhere, and I can't drive, if I can't do the holiday rental business, the longterm rental income even not enough for me buy food.
10	Not sure why the people of Badenoch and Strathspey are considered to be so special?
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18	Yes, these are the minimum standards required to ensure areas with short term lets remain liveable.

## Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Use of criteria?
19	As above.
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29	<p>The consultation suggests that the criteria could be used outside short-term let Control Areas. This suggestion is wholly inappropriate for this exercise and should not form part of the process as it goes beyond the scope and intent of the consultation. The consultation relates exclusively to supplementary guidance related to the control area proposed for Badenoch and Strathspey. It does not relate to areas outwith that Control Area and the consultation has never been proposed on that basis. If the Council was to introduce a policy that applied outwith the control area based on the responses to this consultation, such policy would undoubtedly be unlawful as the Council would not have properly consulted upon it and would (through the title of the consultation) have misled potential consultees from areas outside the control area as to the significance of the proposed policy. See for example the Court of Session's judgement in the case of Graham's the Family Dairy (Property) Limited v Scottish Ministers:</p> <p><a href="https://www.scotcourts.gov.uk/docs/default-source/cos-general-docs/pdf-docs-for-opinions/2021csoh74.pdf?sfvrsn=4f24f592_1">https://www.scotcourts.gov.uk/docs/default-source/cos-general-docs/pdf-docs-for-opinions/2021csoh74.pdf?sfvrsn=4f24f592_1</a></p>
30	Apart from item 1
31	<p>When this and it will all backfire on you I hope when it is measured the councillors are made to apologise to all the local tourist business that will be so much worse off. Who is strathspey and badenoch for? A rich elite who do not need to work and make a living? Close all the stls and fill them full of drug addicts and useless lazy people who do not want to do anything and see what your councillors say then.</p>
33	Points 2,3,& 4 are relevant in all areas. Public transport connections are a broader question.

## Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Use of criteria?
34	I am a holiday let owner and I see the lack of affordable property throughout Scotland. More needs to be done to deter second home ownership as many of these sit empty most of the year and bring nothing to the local economy, Holiday lets bring income into the area in terms of activities, eating out and indirect employment for trades, cleaners and so on.
35	Short term lets provide a significant input to the local economy. In rural Highland there is likely to be little in the way of neighbourhood annoyance. For example Visit Dornoch has over 60 self catering properties and 8 small Bed & breakfast businesses. The income generated for local businesses enables them to survive, so for example the range of shops we enjoy could not be sustained without the visitor economy. The STL legislation has already resulted in self catering and B & Bs closing. For self catering this may result in properties coming on to the market, but the selling price of these is well above 'affordable', so does not address the accepted problem of lack of affordable housing. In fact it is more likely to lead to loss of employment as businesses close! This is ill thought out legislation. The restrictions above e.g 800m from public transport are just not suitable for rural Highlands! There should be a clear distinction between control areas and STL properties in other less busy areas.
36	Again, I think it is dependent on the Planning Authority to understand how to meet the balance between holiday lets and long-term homes. Some criteria, such as holiday lets in residential areas needs restricting due to issues of noisy 'party' accommodation within an otherwise domestic area.
37	
38	It's not a fair question, as this consultation relates only to B&S / ward 20, so responses will be unlikely from those outside of the area, and responses will certainly not be proportionate to inside/outside the area
39	STL need to be carefully managed to the benefit of the community no matter where in the Highlands. Whilst their is an economic benefit in STLs the case is often exaggerated, and whatever the benefit this needs to be balanced with housing for locals/people wanting to live here as well as the well being and quality of life of existing residents.
40	
41	People in rural areas need jobs and cleaning jobs are one of the best paying jobs around

## Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Use of criteria?
42	
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44	What is the point of establishing Council meetings to approve request of a control zone, raising with Scottish government to approve, then consulting on policy - If you then want to apply the same policy to the area outside the control area? If this is the case why was Council and Scottish government time wasted ? " when the planning policy change could have been sought for the whole area straight away.
45	Yes, current licensing process outside of control areas gives absolutely no say to the local community on whether they are approved. Even if these properties are examples of those prohibited elsewhere such as tenement flats.
46	
47	We agree that these criteria should be used for new Short-term secondary let properties outside of a control area. In addition, across short-term let control areas and the whole council, the Council should actively search for routes to revert short-term secondary let properties back into full time residential use and have that in short-term let control area, council should additionally have the power to restrict the number of short-term lets through the overprovision clause and, if they cannot use this power in this occasion, ensure that the Scottish Government updates its legislation.
48	Whilst economic concerns are clearly important, they cannot be allowed to trump the quality of life for residents. Uncontrolled STL development can and will ultimately be counter productive and undermine a balanced approach to sustainability.
49	
50	As above, remote rural areas in Scotland are a great option for holiday makers to get away from everything. They are not likely to be on a public transport route.

Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Use of criteria?
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55	We don't agree with these criteria for within or outwith a Control Area.

Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Use of criteria?
56	There should be consistency across Scotland, rather than arbitrary designated control areas.



## Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Planning conditions?
1	Again these conditions may be better judged on a case by case basis. Not sure there will be a one size fits all solution to these particular issues.
2	Once again the use of external areas is dependant on how close a neighbours property is so due regard should be paid to this,, are you saying people cannot sit on a balcony ? There are laws in place already regarding noise but conditions could be applied to each application ie don't use the garden after 10
3	
4	Restricting life of planning approval will help to ensure the property has a chance to return to a full time dwelling at intervals. Additions of annexes, cabins etc. to an existing property allow the operator to create a mini holiday camp. This should be prevented. External attractions such as hot tubs, BBQ, sauna, games rooms etc. have a disproportionate effect on amenity for surrounding properties. Does "new short term secondary let" mean new build, new planning consent, planning consent under the new proposed regime or some other definition? Clarification needed.
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8	there shouldn't be any restrictions as long as the house meets the planning requirements.
10	Ridiculous amount of council interference in business. STLs are the bedrock of the local economy, you will miss the tourists when they are holidaying elsewhere.
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16	Not finding it easy to understand the questions being asked!
17	
18	All planning approvals should have a limited lifespan so the council and community can adapt to future housing need and in response to the impact of these policies.

## Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Planning conditions?
19	As per all mentioned previously above. Hot tubs particularly are the cause of much aggravation and should seriously be considered when any planning licence is issued.
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27	Ambiguous question
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29	<p>We do not believe that any of the proposed conditions are appropriate. No justification is given for any of the proposed conditions and we do not consider there is any such justification. Regarding proposals to restrict the life of the planning approval, the Council ought to take account of the fact that there is a licensing regime that will apply to any property at which STL use takes place. The licence will be issued for a specified duration and will be renewable only if the licensee operates the property in an acceptable manner. The licence can also be revoked if the licensee uses the property in an unacceptable manner. That appears to deal with this particular proposed condition (since the Council will have to renew the licence upon expiry). Restricting the life of the approval could create additional complexity for applicants by creating a situation whereby the length of the licence is different to the length of planning permission, with both needing to be renewed at different times. The Council has not presented any evidence or rationale for why the use of external areas should be restricted in such a blanket manner and indeed how this condition should be interpreted - for example, whether it would only apply to properties with shared boundaries or common outdoor areas, or to properties with self-contained gardens. Restricting the use of outdoor areas would be disproportionate and unfairly restrict the amenity of those applying for permission, particularly in cases when neighbour impact is unlikely. Disruption through the use of external areas could also be dealt with both when the licence comes up for renewal, and through the Council's usual processes.</p>
30	Either a property is approved for STL use, or not. There should be some kind of mechanism to withdraw permission if interventions due to noise, disturbance to residential neighbours etc have been reported.
31	
33	<p>Restrictions are remarkably difficult to enforce. If there are doubts about use permission should not be granted. External area use needs to be enforced for residents and visitors in equal measure. Minimum room sizes or maximum residency related to the Square meter-eage of the residence should be enforced.</p>

## Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Planning conditions?
34	I think it would be very difficult for property owners to restrict the use of external areas when they have guests. by the time the problem is escalated the occupants have long since gone. All the T&C's in the world will not stop a bad guest from breaking the rules.
35	These are businesses you are talking about. People rely on this income to survive and live in the Highlands. The visitors contribute to and help sustain local communities. Perhaps STL could be restricted to owners who live in the Highlands? Clearly if there is neighbourhood disturbance this needs to be tackled, but that can be caused by resident neighbours as well as 'visiting' neighbours. More affordable accommodation is required to retain our your people and to attract staff to move or seasonally stay here. However trying to reduce self catering accommodation will not create affordable housing - merely impact on the sustainability of rural communities.
36	Any restriction on the life of planning approval needs to allow owners to recover their investment in renovations or modifications. Holiday let modifications should be appropriate to allowing the property to be easily used for long-term residential use. The exception being purpose built holiday let accommodation units.
37	
38	If at any point after planning permission is granted & any restrictions therein are contravened, then there are existing powers to restrict or withdraw permission. Giving permission only for a period of time creates un-necessary cost for operators, which is inevitably passed on to guests, as well as a burden for the council.
39	
40	Planning and licensing are different matters. STLs should have the same requirements and conditions as other properties.
41	

## Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Planning conditions?
42	By restricting the life of the planning approval, you are presenting owner with increased red tape and costs with them having to reapply when the time is up. Also, there should be NO cost to the owner/applicant when applying for planning permission to return the house to residential use. This actually might act as an incentive.
43	An owner might have spent a considerable amount on improving the property then you restrict the life of th planning. I would maybe agree to this if there was a considerable problem with distruptive visitors
44	As a business “ certainty of operations is sought after. Not enough detail is presented in this consultation about what the potential “life” could be of a planning approval. This is why we chose the disagree response. For all of these areas there is not detailed information on what the council would like to add as proposed planning conditions later. You cannot ask people to agree with something that is not accurately specified. In this instance the consultee cannot answer this question as they do not know what they are potentially agreeing to. This question in my opinion is deliberately vague and misleading.
45	Yes, alterations should not be allowed which further distort short term lets from homes able to be let long term in the private sector.
46	
47	We agree that the life of the planning approval for all short-term let properties should be restricted. This gives greater control from the community regarding their areas. We believe that it should be, similar to private landlord registration, a 3 year duration after which planning permission must be sought again. We believe that the council should actively search for routes to revert short-term secondary let properties back into full time residential use. We agree with planning permission restricting the use of external areas, notably in order to ensure that the property can return to long-term full-time residential use. Regarding preventing alterations to the property, we believe alterations should be prevented if these would make the property less likely to be reverted back to long-term full-time residential use
48	Councils and residents must have the powers to curtail STLs when changes of ownership or circumstances can result in development of an STL that is or could be detrimental or unsafe.
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## Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Planning conditions?
51	These restrictions go against Human Rights, Fundamental Rights and Right to Property. Planning permission should not have an expiry date. If the property continues to be used as a short term let, it should be able to continue to do so until the owner would like to change its use. There should also be no restrictions on the use of external areas. This does not apply to other residential areas, and there is no reason why it should be different for short term let properties. The activities related to short term letting should be permitted in the same way as for other residential properties.
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55	We are concerned that the introduction of the concept of a lifespan for planning permission would make the building of a self-catering let business unviable. Why would someone carefully build a business, employing local people, bringing tourist spend to an area if it is only for a limited lifespan. Once planning permission is given to use a property in a certain way is there a policy reason for why it should be revoked at the end of a certain length of time? We understood that the basic tenet of planning policy was that if the certain way of using a property ends then another planning permission for change of use would be required to change it to something else. It seems as though having a time-limited planning policy is effectively an alternative to granting a licence for a specific length of time which seems to conflate the two schemes. If the two criteria of limitation on alterations to the property and restricting use of external areas are not being applied to other types of residential letting it seems unreasonable and disproportionate to do so for secondary letting. It would be good to know the reason for the difference in treatment.

Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Planning conditions?
56	Given the importance of short term accommodation in supporting the economic benefit of tourism there should be longevity in permissions to permit owners and managers of accommodation to invest in long term facilities to continue to attract visitors. Short term permissions will result in a lower standard of facility as owners risk manage investments. Owners should also be able, without constraints, to make appropriate enhancements and alterations to improve the quality of accommodation offered.

## Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Definition?
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4	Definition for "established short term secondary let property" should be defined by a calendar date. As written, it is virtually impossible for a lay person to determine the date and is open to extended legal argument. What is the definition of an "active travel link"?
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7	Important for businesses know if there is a minimum number of years of operation to be applied with respect to planning versus certificate
8	In some rural areas, there are people who want to rent their house, one reason is because they have no other skills to earn an ok income,(I am one of them)¼%. for example, isle of skye, there aren't many job choices for people, most of the residents are pensioners, and although they have a pension, the pension even is not enough to pay for the heating if they want to keep the house warm all the time, will the government pay for them? Before people will rent their houses for long term, but after all the expenses, people will earn little, even lose money, because the law will not protect the landlord, and tenants might not look after the rental, the house could be damaged, so less people want to rent their properties for the long term. If young people rent or buy a house here, what jobs are there to pay for their life here, they maybe want to rent their house, but later they find that long term rental they can earn nothing, but short-term rental, the government won't allow, so they won't want to live in skye, so the new STLs will not improve people's life quality, will not change the house crises, only destroyed the life of the original residents who haven't proper income or pension.
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12	Established should be 10yrs+ before the Airbnb market revolution.
13	Our so called residential street of new builds is blighted by Airbnb and holiday homes owners in houses that weâ€™re giving planning permission as affordable homes
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16	The term short term let is misleading â€ holiday let would be less confusing
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## Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Definition?
19	The STL policy is welcomed and I would certainly wish to see it rolled out throughout the Highlands (and other areas - such as Edinburgh and East Lothian) so as not to move our existing "problem" somewhere else. I fully realise that many villages in our control zone have long been holiday villages but Airbnb and their like have tilted the balance to such a degree that we are not able to keep our offspring in the area and there is no affordable accommodation available for new professionals moving into the area.
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23	The date now established as being the cut-off for a dwelling house that has been trading as a short term let property (9 September 2021) is at significant odds with the letting license date of 1 October 2022, and I suspect could be open to challenge. It is indeed remarkable that a cut-off date can be determined that precedes the date of the Scottish Government agreeing to the request to establish a control zone. Surely at the very least there needs to be consistency between licensing and planning.
24	
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26	
27	STL and secondary letting are not 'bad things' - when well run they can support local families earning a living.
28	Studies have shown that Control zones can push housing prices up. I do not believe that this is helpful to the economy here in B&S. Business is thriving and just about to receive a hammer blow from HC. Take a look at other villages and towns in the Highlands that are devoid of any real income drivers. We should be THANKFUL for continued investment. Change your planning policy on what can be built if you want to effect real housing changes.
29	
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## Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Definition?
34	<p>Long term empty. - so any property that doesn't meet your criteria can sit empty for two years and then be granted planning permission. Long term empty should mean unfit for human habitation or derelict.</p> <p>Bedroom - some properties have established extensions with new open plan living areas thus creating an extra bedroom by repurposing the lounge. Will this be looked a favourably?</p>
35	<p>It is very restrictive to make the 'long established dwelling house' to be completed before 6/1/2017. It should relate to the number of years trading (e.g. 5 years) rather than the age of the building. However if such a date is deemed necessary it should be 1/9/2023 which is the current deadline for STL applications.</p>
36	<p>In general something has to be done to ensure there is a better provision for dwelling houses for key workers within the area. The market is failing what is actually needed, so controls are required. Building more homes will help; putting use conditions on new homes through legal agreements or shared equity will help. Ensuring that second homes contribute fully to local rates (no rebates) will help, ensuring all properties are bought up to the same energy efficiency standards will help; ie remove any market advantages for owners to develop holiday lets instead of long-term residential lets. Good luck! Thank you.</p>
37	<p>This is an appalling survey. We have had to read, re-read and re-read again in order to understand the questions posed. We do not speak fluent Council-ese nor Legal-ese, nor Planning-ese. We doubt very much if this survey would achieve crystal mark status. In any form of communication you should bear in mind those who are at the receiving end of that communication and design it accordingly. This survey has not been designed in that way - it is designed from an internal perspective not from the perspective of those who are expected to read, understand and contribute. Effective communication is clearly understood, it is simple and to the point - this survey does not achieve those outcomes.</p>
38	<p>see attached document</p>
39	<p>2 years is too short. This should be for a period of 10 years. I can see developers building the cost of letting a property sit empty to allow them to do what they want. I would also like to see that other options have been seriously explored before allowing a stl. These options could include community buy out, housing association purchase etc.</p>
40	<p>Properties that do not a private entrance should not be excluded from being a dwellinghouse. Bedroom definition has been taken from HMO licensing which differs to STLs? Established</p>
41	

## Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Definition?
42	<p>I think that introducing a requirement for planning permission to change a dwelling house into a STL should not proceed under the proposals as set out above. While I agree that some sort of policy should exist it should NOT be applied retrospectively. It should NOT apply to those of us who operate a STL and who's home address is within the same community as the STL. And I strongly believe that planning permission to return the home to a dwelling house from an STL should not have a financial fee associated with the application.</p>
43	
44	<p>I would strike 'long-established dwellinghouse' from exception 4 in the proposed policy so that it reads 'It is an established short term secondary let property' I would put forward that established short term let properties that were operating before both of below dates should be granted permission - operating before the original council meeting to pursue a B and S Planning Control zone (9 September 2021) - operating before 1st October 2022 which under 'The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022' and as such classify as an existing operator.</p>
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47	<p>We believe a degree of frequency should be applied to the term 'established short-term secondary let property'. We believe this should only include properties that have an occupancy rate above 50% for the period it has been a short term let, proven by the applicant.</p>
48	
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## Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response

Council Ref	Any Comments on the proposed Definition?
	<p>“Bedroom” Short term let properties are sometimes properties of character, and this definition should not be relevant to a secondary let. An “established short term let property” should be one that has traded as a short term let prior to the finalised version of any planning policy and final approval and establishment of a short term let control area. It is not fair to subject owners of a house to rules retrospectively, which had not yet been established. This does not provide any transparency or fairness to decision making in terms of owning or buying a property. New policies regarding granting Planning permission should only apply to individuals who would like to short term let their properties from a prospective date when the short term let control area and associated planning policies are approved and finalised. The homeowners who have been short term letting their homes thus far, prior to finalisation and approval of this policy should be regarded as an “established short term let property”. The owners of short term secondary lets are small business owners or they may be a family who have worked very hard to invest their money into a second home. By applying these rules retrospectively, you are punishing hard working individuals. These individuals may supply their second home to the tourism industry when it is vacant. It would be a missed opportunity for the tourism industry to not allow the use of a second home to be used as a short term let. This may also be destructive to a family’s financial situation by restricting the use of their own home, by approving strict retrospective criteria. No one deserves to be punished financially with rules that have never existed or even proposed in writing, if they owned their home prior to the finalised approval of the establishment of a short term let control area. Second home owners should be allowed to continue to short term let their homes if they have done so prior to the finalisation and implementation/establishment of the short term let control area. Until the planning policy is established, all dwellings should have the right to trade as a short term let property. “Long established dwelling house” is irrelevant and too complex. The term “dwelling house” as defined in Planning Circular 10/2009 should suffice.</p>
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55	<p>The definition of “bedroom” appears to have been taken from House of Multiple Occupation (HMO) guidance and is not relevant to secondary letting as people do not live in the property as they would in an HMO. The definition does not take into account the unique character and nature of some self-catering accommodation. “Established short-term secondary let property” The decision letter sent from the Scottish Government to the Council: “A change of use of a dwellinghouse to a short-term let after the designation of the control area will be deemed to be a material change of use by virtue of section 26B of the Act. 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”. These two paragraphs appear in the equivalent letter to Edinburgh Council re. their Control Zone. Similar also appears in the Scottish Government’s draft planning guidance. As such, we understand a planning application should not be required for those properties that were already operating before a Control Area was designated i.e. that operators have “grandfather rights” in terms of planning within a Planning Control Area. “Long-established dwellinghouse” As we mention above, “long-established dwellinghouse” is too complex a definition and believe would be better to use “dwellinghouse”.</p>

**Non-statutory Short-Term Secondary Letting Planning Policy Consultation Response**

Council Ref	Any Comments on the proposed Definition?
56	

# Non-statutory Short-Term Secondary Letting Planning Policy

## THE USE OF A DWELLINGHOUSE FOR SHORT-TERM SECONDARY LETTING

Within a *Short-term Let Control Area*, planning permission will not be granted if the development results in the loss of a *dwellinghouse* to the *short-term secondary let* sector, except in one of the following circumstances:

1. Where extensive refurbishment of a *long-term empty dwellinghouse* is proposed to bring the building back into active use. **Supporting evidence will be required to be submitted to demonstrate this.**
2. The proposal is for the upper floor(s) above a commercial unit within a defined Town Centre.
3. The proposal relates to a *dwellinghouse* with no fewer than four *bedrooms*, as the dwellinghouse existed at the date of the establishment of a short-term let Control Area or as originally built.
4. It is an *established short-term secondary let property* in a *long-established dwellinghouse*.

All proposals for short-term secondary letting should comply with the following criteria:

- a) The site is within 800m of public transport connections or *active travel link*, linking to services and facilities. If the property is beyond the 800m distance, a Developer Contribution may be sought to improve active travel and/or tourist vehicular facilities, in agreement with the Council Transport & Active Travel Teams;
- b) The proposal avoids creating an unacceptable detrimental impact on the privacy, amenity and character of the location and established uses. The Council will generally not support the change of use of flatted properties to the *short-term secondary let* sector due to the potential adverse impact on residential amenity.
- c) Sufficient commercial waste storage space is provided within the curtilage of the short-term secondary let property and consideration is given to the location of the collection point for this waste, to the satisfaction of the Council Waste Management Team;
- d) Parking provision is in accordance with the 'Residential Parking Standards' as set out in the Council 'Road & Transport Guidelines for New Developments'.

Where a new *short-term secondary let* property is supported, the Council might **in exceptional circumstances** apply conditions which restricts the life of the approval and prevent alterations to, and restrict the use of external areas.

In areas outside of a Short-term Let Control Area, the Council will generally support planning applications for new *short-term secondary letting* which are in accordance with adopted Local Development Plan and where the above criteria are complied with.

The Council will generally be supportive of proposals to revert *short-term secondary let* properties back into full-time residential use, providing the property has acceptable privacy and amenity.

## Definitions:

*'dwellinghouse'* is defined as in Planning Circular 10/2009: Planning Enforcement:

An independent dwelling (with its own front door, kitchen and bathroom) being accommodation which ordinarily affords the facilities required for day-to-day private domestic existence such as a house, flat, cottage

*'short-term let'* is as defined in the 1997 Act and regulation 2 of the Control Area Regulations.

*'secondary let'* is defined as the letting of a property where the host or operator does not normally live for example a second home.

*'control area'* means a short-term let control area designated under section 26B of the 1997 Act, as amended by the Planning (Scotland) Act 2019.

*'long-term empty'* means a dwellinghouse that has been empty for 2 years or more.

*'bedroom'* excludes rooms which are considered as living or dining rooms. All bedrooms must be no smaller than 6.51 square metres (70 square feet) and must include one glazed opening that is equal to at least 1/15th of the floor area of the room.

*'Established short-term secondary let property'* means:

A *dwellinghouse* that has been trading as a short-term secondary let property before the date of the first approval at a Council Committee meeting proposing the establishment of a short-term let Control Area for that location.

With regards to Ward 20: Badenoch & Strathspey Short-term Let Control Area this date is the **9th September 2021**.

Supporting evidence will be required to be submitted as part of the application to demonstrate that the dwellinghouse was trading as a short-term let before the committee date, this evidence might include the following:

- receipts for guests staying at the property;
- extracts from business accounts;
- Reports from the accommodation provider channel manager/platform; or
- Evidence of payment of non-domestic rates as a self-catering unit.

*'Long-Established dwellinghouse'* means:

A dwellinghouse that was completed (as per the Building Warrant Completion Certificate) prior to the adoption of the [Highland Council Local Housing Strategy: 2017/22](#) on **6th December 2017**.

*'active travel link'* means a lane either within the cross section of the road carriageway or hard surfaced detached route for use by all non-motorised vehicle users and separated from motor traffic by road markings.