



## For Decision

### **Title: Short-term let control area for Ward 20: Badenoch and Strathspey**

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#### **Purpose**

1. This paper presents an update of the Highland Council's work on establishing a short-term let control area in Ward 20: Badenoch and Strathspey. It asks that the planning committee support the Council's adopted non-statutory guidance as a material consideration in the determination of planning applications for short-term lets within the control area.

#### **Recommendation**

2. The Committee is asked to:
  - a) Note their support for the Highland Council's non-statutory short-term let control area planning policy as a material consideration in the determination of planning applications for short-term lets within the control area in Ward 20: Badenoch and Strathspey.

#### **Background**

3. Section 26B of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning (Scotland) Act 2019, allows planning authorities to designate short-term let control areas in which planning permission must be sought to change the use of a residential property to a short-term let<sup>1</sup>.
4. At a meeting of the Highland Council on 9 September 2021 members of Ward 20 expressed concern over the number of dwelling houses within Badenoch and Strathspey being lost to the short-term let market. At the request of the members it was agreed that the Council would pursue the consideration of establishing a short-term let control area across Badenoch and Strathspey.

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<sup>1</sup> See: <https://www.legislation.gov.uk/ukpga/1997/8/section/26B>



5. Detailed consideration of the request was undertaken at the Council's Economy and Infrastructure Committee meeting on 2 December 2021, whereby the Committee agreed to advance to the formal consultation stage of the process.
6. 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 agreed 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
7. Moreover, the committee report of 30 June also committed the Highland Council, in consultation with members, to prepare and consult upon planning policy options for considering and determining planning applications for short-term lettings within the control area. A draft policy was consulted on between 8 December 2022 and closed on 3 February 2023. The Park Authority's planning committee considered this policy in their meeting of 27 January 2023 and agreed to submit a response to the consultation in support of the draft policy<sup>2</sup>.
8. After consideration of all the evidence presented to them, on 20 December 2022 Scottish Ministers approved the proposed designation of Highland Council Ward 20 (Badenoch & Strathspey) as a short-term let control area.
9. On 4 May 2023, the Council agreed to delegate officers the power to undertake the final steps to establish the short-term let area in their meeting of the Economy and Infrastructure committee. However, following the publication of Scottish Government's new short-term let control area guidance on 17 May 2023<sup>3</sup>, and in light of scrutiny by interested parties and the high risk of legal challenge, the council considered it appropriate to further consider the work they had undertaken to establish the control area prepare the draft non-statutory planning policy.

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<sup>2</sup>

<https://cairngorms.co.uk/resource/docs/boardpapers/27012023/Item5AABadenochandStrathspeyShortTermLetControlAreaPolicyConsultation.pdf>

<sup>3</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2023/05/short-term-lets-planning/documents/planning-circular-1-2023-short-term-lets-planning/planning-circular-1-2023-short-term-lets-planning/govscot%3Adocument/planning-circular-1-2023-short-term-lets-planning.pdf>



10. At a meeting of the Highland Council on 14 December 2023 members once again agreed to delegate officers the power to undertake the final steps to establish the short-term let area. According to Regulation 9 of the Town and Country Planning (Short-Term Let Control Areas) (Scotland) Regulations 2021<sup>4</sup>, in order to enact the short-term let control area the Council must publish a notice in a newspaper circulating in the area (in this case the Strathspey & Badenoch Herald) and on their 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.

11. The Council intend to publish the notice in January 2024. At least 28 days must be allowed between the date of the publication of the notice and the short-term let control area coming into effect. Based on the ambitions and resources of the Council, the earliest possible date that the short-term let control can be formally established is Monday 4 March 2024.

12. At the meeting of 14 December, the Council also agreed to adopt the draft non-statutory planning policy that will be used in the determination of planning applications for short-term lets within the control area.

### **Non-statutory short-term let control area planning policy**

13. Following the consultation on draft policy as well as its review following the release of Planning circular 1/2023: short-term lets and planning, numerous amendments were made to its wording. The version that the Highland Council have agreed to adopt has a more limited scope to considering proposals within a control area and now reflects the definitions used within the 1997 Act and 2021 Regulations. Furthermore, the policy now makes a clearer distinction between the consideration of proposals for entirely new short-term lets and the continuing use of existing short-term lets.

14. The policy is unlikely to be used in decisions made by the Park Authority itself, as the changes of use it seeks to control are unlikely to fall within the Park Authority's call-in criteria. It is worth noting however that due to the publication and public engagement around the proposal to establish the short-term let control area, the Council has already received a number of planning applications from new and existing short-term let operators seeking to secure planning permission in the event

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<sup>4</sup> <https://www.legislation.gov.uk/sdsi/2021/9780111048085/regulation/9>



the control area is established. As of 20 November 2023, the number of planning applications pending across Ward 20 for existing dwellinghouses was around 215 and while awaiting further consideration of the effects of the control area, these applications have been held pending consideration. Therefore, once the short-term let control area is formally established, these applications will be determined in accordance with the non-statutory planning policy, National Planning Framework 4 and, for those applications within the National Park, the Cairngorms National Park Local Development Plan 2021.

15. The policy and supporting text are presented in Appendix 1.

### **Recommendation**

16. It is recommended that the planning committee note their support for the Highland Council's non-statutory short-term let control area planning policy as a material consideration in the determination of planning applications for short-term lets within the control area in Ward 20: Badenoch and Strathspey.

### **Supporting information**

Appendix 1 – Highland Council non-statutory short-term let control area planning policy.