



Cairngorms
National Park Authority

Ùghdarras Pàirc Nàiseanta a'
Mhonaidh Ruaidh

Item 9 Appendix 1 26 January 2024

Agenda item 9

Appendix 1

Highland Council

Non-statutory short term let control area planning policy

HIGHLAND COUNCIL NON-STATUTORY SHORT-TERM LET CONTROL AREA PLANNING POLICY

Version.	1.4
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1.0 Introduction

This non-statutory planning policy relates to the use of a *dwellinghouse* as a *short-term let* within a *Control Area*.

The provision of all other *tourist accommodation* both in and out of a *Control Area* will remain to be considered under existing policies, particularly NPF4 Policy 30 & HwLDP 44. The Statutory Development Plan needs to be read in the whole and it is for the decision maker to consider the weight of individual policies.

Dwellinghouses: Once a *Control Area* has been designated the **proposed** use of a *dwellinghouse* as a *short-term let* will automatically require planning permission. If a **material** change of use occurred **before** the Control Area was designated and the **existing** use doesn't already have planning permission; or a certificate of lawful use; or the evidence to support a certificate of lawful use application; or is not immune from enforcement action, then planning permission will be required.

Properties other than Dwellinghouses: The need for planning permission for the use of properties other than *dwellinghouses* for short-term letting/tourist accommodation will not change as a result of a *Control Area* being established. Planning permission will continue to be required if the **proposed** change of use is considered to be material. If a **material** change of use occurred **before** the Control Area was designated and the **existing** use doesn't already have planning permission; or a certificate of lawful use; or the evidence to support a certificate of lawful use application; or is not immune from enforcement action, then planning permission will be required.

It is important to note that the Licensing of short-term lets is separate to the Planning process and a Licence is likely to be required even if planning permission is not. [Further information is available on Council webpage¹.](#)

Applicants are encouraged to seek pre-application advice on proposals before submitting a planning application: [https://www.highland.gov.uk/info/205/planning - policies advice and service levels/785/pre-application advice](https://www.highland.gov.uk/info/205/planning_-_policies_advice_and_service_levels/785/pre-application_advice)

2.0 Statutory Development Plan Policy

National Planning Framework 4: Policy 30. (Tourism)

a) Development proposals for new or extended tourist facilities or accommodation, including caravan and camping sites, in locations identified in the LDP, will be supported.

b) Proposals for tourism related development will take into account:

¹ https://www.highland.gov.uk/info/20021/short_term_lets

- i. The contribution made to the local economy;
- ii. Compatibility with the surrounding area in terms of the nature and scale of the activity and impacts of increased visitors;
- iii. Impacts on communities, for example by hindering the provision of homes and services for local people;
- iv. Opportunities for sustainable travel and appropriate management of parking and traffic generation and scope for sustaining public transport services particularly in rural areas;
- v. Accessibility for disabled people;
- vi. Measures taken to minimise carbon emissions;
- vii. Opportunities to provide access to the natural environment.

c) Development proposals that involve the change of use of a tourism-related facility will only be supported where it is demonstrated that the existing use is no longer viable and that there is no requirement for alternative tourism-related facilities in the area.

d) Proposals for huts will be supported where the nature and scale of the development is compatible with the surrounding area and the proposal complies with relevant good practice guidance.

e) Development proposals for the reuse of existing buildings for short term holiday letting will not be supported where the proposal will result in:

- i. An unacceptable impact on local amenity or the character of a neighbourhood or area; or
- ii. The loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits.

3.0 Non-Statutory Short-term Lets within a Control Area Planning Policy

Within a *Control Area*, the use of existing *dwellinghouses* as a *short-term let* will be expected to meet the requirements **NPF4 Policy 30 e)**.

The provision of all other *tourist accommodation* in a *Control Area* will remain to be considered under NPF4, particularly Policy 30, the [Highland-wide Local Development Plan](https://www.highland.gov.uk/info/178/local_and_statutory_development_plans/199/highland-wide_local_development_plan)², and within the Cairngorm National Boundary the [Cairngorms National Park Local Development Plan](https://cairngorms.co.uk/planning-development/ldp-2021/)³.

Within a *Control Area*, the Council will support the use of an existing *dwellinghouse* as a *short-term let* that falls within one of the following categories:

1. It is a *long-term empty dwellinghouse* that will be brought back into active use. Supporting evidence will be required to be submitted to demonstrate this.
2. The *dwellinghouse* is located above a commercial unit within a City, Town or Village centre.

² https://www.highland.gov.uk/info/178/local_and_statutory_development_plans/199/highland-wide_local_development_plan

³ <https://cairngorms.co.uk/planning-development/ldp-2021/>

3. The *dwellinghouse* has no fewer than four *bedrooms*, as it existed at the date of the designation of the *Control Area* or, if constructed after the designation of the *Control Area*, as originally built.

When assessing the 'impact on local amenity or the character' (NPF4 Policy 30.e)ii.) & 'adverse impacts upon neighbouring uses' (HwLDP Policy 44), the Council will include consideration of the following:

- Privacy
- Amenity
- Parking provision
- Commercial waste storage space and collection point
- Neighbouring land uses

4.0 Definitions

For the purpose of this non-statutory planning policy, the following terms and phrases are defined as follows:

'*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;

'*Control Area*' means a short-term let control area established as such under section 26B of the 1997 Act, as amended by the Planning (Scotland) Act 2019;

'*dwellinghouse*' means 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, cottage⁴;

'*long-term empty*' means a dwellinghouse that has been registered as empty for 2 years or more on the Council Tax List;

'*short-term let*' within a Control Area, means a property falling within the definition contained in Section 26B of the 1997 Act and The Town and Country Planning (Short-term Let Control Areas) (Scotland) Regulations, as amended. Put very simply: when accommodation not occupied by its owner is offered for holiday rental in return for payment to someone unrelated to the owner, then that property falls within the short-term let definition. Examples of accommodation that could fall within the definition of a short-term let depending on how it is being occupied and to whom it is being rented out, include: pods, yurts, shepherd huts, dwellinghouses, properties converted into living accommodation etc.

Town and Country Planning (Scotland) Act 1997, as amended - 26B Material change of use: short-term lets

(3) For the purposes of this section, the following tenancies do not constitute a short-term let-

⁴ Planning Circular 10/2009: Planning Enforcement

- (a) a private residential tenancy under section 1 of the Private Housing (Tenancies) (Scotland) Act 2016,
- (b) a tenancy of a dwellinghouse (or part of it) where all or part of the dwellinghouse is the only or principal home of the landlord or occupier.

The Town and Country Planning (Short-term Let Control Areas) (Scotland) Regulations, - Regulation 2 (as amended) provides as follows:

Short-term let

(1) For the purposes of section 26B of the Act, and subject to section 26B(3) of the Act, a short-term let is provided where all of the following criteria are met—

- (a) sleeping accommodation is provided in the course of business to one or more persons for one or more nights for commercial consideration,
- (b) no person to whom sleeping accommodation is provided is an immediate family member of the person by whom the accommodation is being provided,
- (ba) the accommodation is not provided under an excluded tenancy,
- (c) the accommodation is not provided for the principal purpose of facilitating the provision of work or services to the person by whom the accommodation is being provided or to another member of that person's household,
- (d) the accommodation is not provided by an employer to an employee in terms of a contract of employment or for the better performance of the employee's duties, and
- (e) the accommodation is not excluded accommodation."

Regulation 1 defines "excluded tenancy" as:

- (a) a 1991 Act tenancy (within the meaning of section 1(4) of the 2003 Act),
- (b) a modern limited duration tenancy (within the meaning of section 5A of the 2003 Act),
- (c) a short limited duration tenancy (within the meaning of section 4 of the 2003 Act),
- (d) a student residential tenancy,
- (e) a tenancy of a croft (within the meaning of section 3 the 1993 Act),
- (f) a tenancy of a holding situated outwith the crofting counties (within the meaning of section 61 of the 1993 Act) to which any provisions of the Small Landholders (Scotland) Acts 1886 to 1931 applies.

'Tourist accommodation' means a building that is regularly or occasionally used for sleeping accommodation for tourists/visitors.