

PERTH AND KINROSS COUNCIL

Environment, Infrastructure and Economic Development Committee

1 November 2023

SHORT-TERM LET NON-STATUTORY PLANNING GUIDANCE

Report by Head of Planning and Development

(Report No. 23/289)

1. PURPOSE

- 1.1 To seek approval of the finalised non-statutory planning guidance relating to the change of use of residential properties to short-term lets.

2. RECOMMENDATIONS

- 2.1 It is recommended that Committee:
- approves finalised non-statutory planning guidance on short-term lets (Appendix 2)
 - notes that a paper relating to the introduction of a short term let control area will be brought forward in early 2024.

3. STRUCTURE OF REPORT

- 3.1 This report is structured over the following sections:

- Section 4: Background
- Section 5: Consultation findings
- Section 6: Planning applications - update
- Section 7: Finalised guidance
- Section 8: Next steps
- Section 9: Conclusion
- Appendices

4. BACKGROUND

- 4.1 In May 2023 (report no. 23/171 refers) the Committee was requested to approve public consultation on:
- the principle of a short-term let planning control area for Highland Perthshire and part of Eastern Perthshire; and
 - proposed non-statutory planning guidance for short-term lets.
- 4.2 A report on the principle of establishing a Short-Term Let Control Area will be presented to the Committee early in 2024. This timeframe will allow for the Short-Term Lets Evidence Paper (Report No. 23/171 Appendix 1 refers) to be updated following analysis of both consultation responses and licensing

applications received by the deadline of 1 October 2023 agreed by the Scottish Parliament. It is important that any potential planning policy change is well-evidenced, and the licensing scheme data provide a finer-grained analysis than the work to date on second home ownership and advertising on booking platforms.

- 4.3 Meantime, current planning regulations continue to apply. Planning permission is required where a change of use from residential occupation to short-term let is deemed to be a material change or, in the case of flats, where planning permission is always required. The introduction of the licensing scheme ([The Civic Government \(Scotland\) Act 1982 \(Licensing of Short-term Lets\) Order 2022 \(legislation.gov.uk\)](#)) has led to some confusion about the additional need for planning permission in some circumstances. Therefore, it is considered helpful to both applicants and planning officers to proceed to introduce Perth and Kinross specific guidance to assist with planning application assessment and determination.

5. CONSULTATION FINDINGS

- 5.1 The public consultation on the proposed non-statutory planning guidance ran from 2 June to 18 August 2023. It attracted 334 responses of which approximately two thirds came from residents and one third from those with a business interest. Several organisations also responded, and these are listed at Appendix 1.
- 5.2 Appendix 1 details the consultation responses. Summary findings for each of the scenarios consulted on are provided below.
- 5.3 1 – The proposal is for the extensive refurbishment of a long term empty residential property which will bring the building back into active use.**

| Response | Residents | Business owners (including those who are also residents) | Organisations / groups |
|--|-----------|--|------------------------|
| Agree / strongly agree | 53% | 47% | 36% |
| Disagree / strongly disagree | 28% | 32% | 50% |
| Neither agree nor disagree / don't know / no comment | 19% | 21% | 14% |

Table 1. Breakdown of responses to criterion 1 respondent group
 One of the key reasons for disagreeing was that the emphasis should be on reusing existing buildings for long term let or permanent homes instead of short-term lets.

5.4 2 – The proposal relates to a residential property with four or more bedrooms as this stock is considered less significant in terms of housing needs assessments.

| Response | Residents | Business owners (including those who are also residents) | Organisations / groups |
|--|-----------|---|------------------------|
| Agree / strongly agree | 32% | 33% | 50% |
| Disagree / strongly disagree | 39% | 38% | 36% |
| Neither agree nor disagree / don't know / no comment | 29% | 29% | 14% |

Table 2. Breakdown of responses to criterion 2 respondent group

The level of agreement on this criterion between residents and businesses were around the same. A key question raised by both sectors was why less emphasis should be placed on the retention of larger properties.

5.5 3 – It can be demonstrated that the residential property has been operating as a short term let for more than 10 years and it therefore exempt from planning enforcement action.

| Response | Residents | Business owners (including those who are also residents) | Organisations / groups |
|--|-----------|---|------------------------|
| Agree / strongly agree | 38% | 52% | 36% |
| Disagree / strongly disagree | 45% | 40% | 36% |
| Neither agree nor disagree / don't know / no comment | 17% | 8% | 28% |

Table 3. Breakdown of responses to criterion 3 respondent group

Many of the comments related to whether it should be a longer or shorter time period, however, a key point is that it duplicates planning law so does not need to be included in guidance. This is discussed further at paragraph 7.3 below.

5.6 4 – It can be demonstrated that the proposal for the change of use to short term let is part of a diversification scheme to support an existing Perth & Kinross business within the same landholding.

| Response | Residents | Business owners (including those who are also residents) | Organisations / groups |
|--|-----------|--|------------------------|
| Agree / strongly agree | 36% | 41% | 43% |
| Disagree / strongly disagree | 28% | 19% | 28.5% |
| Neither agree nor disagree / don't know / no comment | 36% | 40% | 28.5% |

Table 4. Breakdown of responses to criterion 4 respondent group

A significant number of respondents did not comment or gave a neutral response. This is perhaps indicative of a need for more clarity on this criterion and this is discussed at paragraph 7.6 below. Approximately twice as many business respondents agreed with this criterion than disagreed. Resident respondents were more evenly split.

5.7 5 – In all cases properties must have their own door to the street to reduce the risk of adverse impact on the amenity of neighbouring residents.

| Response | Residents | Business owners (including those who are also residents) | Organisations / groups |
|--|-----------|--|------------------------|
| Agree / strongly agree | 53% | 27.5% | 43% |
| Disagree / strongly disagree | 23% | 45% | 36% |
| Neither agree nor disagree / don't know / no comment | 24% | 27.5% | 21% |

Table 5. Breakdown of responses to criterion 5 respondent group

This proposal has the biggest divide in opinion between residents and business owners. Over half of resident respondents agreed largely on the grounds that it would help protect amenity, safety, privacy and quality of life for permanent residents. By contrast, nearly half of business respondents disagreed with a key concern being that this discriminates against flat owners.

Other matters

- 5.8 A significant number of additional comments were given with arguments for and against the need for control over short-term lets. These are set out in Appendix 1 and include comments for control such as: *“it is unfair that workers and locals are being priced out of the market by short-term lets”*. Comments against control include: *“restricting short-term lets will not increase the supply of affordable housing and that efforts to increase housing provision for local residents should not be at the expense of the tourism industry.”*

6. PLANNING APPLICATIONS - UPDATE

- 6.1 Report 23/171 (paragraph 6.11) set out the number of short-term let planning applications for change of use which had been received up to April 2023. Table 6 provides an updated position as of 2 October 2023.

| Wards with planning applications | Approved Applications | Refused Applications | Certificate of Lawfulness | Awaiting Decision |
|----------------------------------|-----------------------|----------------------|---------------------------|-------------------|
| Ward 2 Strathmore | 0 | 0 | 0 | 1 |
| Ward 3 Blairgowrie | 4 | 0 | 2 | 2 |
| Ward 4 Highland | 7 | 7 | 2 | 9 |
| Ward 5 Strathtay | 2 | 1 | 1 | 4 |
| Ward 6 Strathearn | 6 | 0 | 1 | 5 |
| Ward 7 Strathallan | 5 | 0 | 0 | 2 |
| Ward 8 Kinross-shire | 3 | 0 | 0 | 1 |
| Ward 9 Almond & Earn | 0 | 0 | 0 | 1 |
| Ward 10 Perth City South | 1 | 1 | 0 | 0 |
| Ward 11 Perth City North | 2 | 0 | 0 | 0 |
| Ward 12 Perth City Centre | 11 | 4 | 1 | 6 |
| TOTALS | 41 | 13 | 7 | 31 |

Table 6: Number of planning applications for change of use of a residential property to short-term let. April - October 2023

6.2 As of 2 October 2023, there has been one appeal against the refusal of planning permission which was dismissed by the Scottish Government Planning and Environmental Appeals Division (DPEA). 2 appeals have been made to the Local Review Body with the outcomes pending.

7. FINALISED GUIDANCE

7.1 NPF4 became part of the statutory development plan on 13 Feb 2023 and makes specific mention of short-term lets in Policy 30 Tourism. There is no specific policy within the adopted Local Development Plan (LDP) relating to short-term lets. As such, the NPF4 policy will be used to assess the principle of such changes of use in planning applications until such time as the LDP is reviewed. To assist the determination of planning applications in the interim, it is considered that additional planning guidance is needed. Any such guidance can only be non-statutory. The full revision of the guidance can be found at Appendix 2.

7.2 No consensus emerged through the consultation on any part of the proposed planning guidance. This was to be expected given the varying interests involved in this issue. Two substantial changes have been made in finalising the guidance and these are set out below. In addition, further clarity or explanation has been provided where appropriate, but no completely new issues have been introduced.

7.3 Firstly, it was pointed out in consultation responses that it is not appropriate to include in the guidance that which is already enshrined in planning law. Therefore, the process by which short-term let owners can apply for a Certificate of Lawful Use or Development, where they have been operating continuously for more than 10 years, is now included as a statement of fact rather than as a means of assessing planning applications.

7.4 Secondly, the format of the guidance has been reworked to tie more directly the issues considered through the consultation with the policy framework in NPF4. The resulting changes are set out in paragraphs 7.5 and 7.6 below.

7.5 NPF4 Policy 30 e) criterion i) does not support a change of use to short-term let where the proposals will result in an unacceptable impact on local amenity or the character of a neighbourhood or area. The amended draft guidance includes shared access, property size and refurbishment as factors to be considered by planning officers. Specifically on shared access, a tiered approach is now proposed which seeks to recognise that the impact of properties being used for short-term let will differ depending on other existing uses within the area. For example, the impact of a short-term let off a shared access within a predominantly residential area will be potentially greater than for example in a town or city centre where there is a mix of other uses which could already impact significantly on residential amenity.

- 7.6 NPF4 Policy 30 e) criterion ii) does not support a change of use to short-term let where the proposals will result in the loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits. All short-term lets have the potential to provide benefits to the local economy through visitor spend and the provision of services e.g. cleaning, laundry, property maintenance etc. There is, however, a need to balance this in areas where short-term lets are resulting in an unsustainable loss of residential accommodation. To address concerns raised through the consultation, cross-reference is now made in the guidance to existing development plan policies on rural business to ensure that the impacts of any diversification proposals are fully assessed.

8. NEXT STEPS

- 8.1 If the Committee is minded to approve the guidance, the finalised version will be published on the Local Development Plan – Supplementary Guidance web page. A further report on the principle and evidence for designating a Short-Term Let Control Area will be presented to the Committee early in 2024.

9. CONCLUSION

- 9.1 Additional planning guidance is needed to assist in interpreting the national policy framework, as set out in NPF4, for a Perth & Kinross context. This non-statutory guidance will assist in the assessment of planning applications for the change of use to short-term let until superseded by specific policies and proposals in the next Local Development Plan.

Authors

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Approved

| Name | Designation | Date |
|----------------|----------------------------------|-----------------|
| Barbara Renton | Executive Director (Communities) | 23 October 2023 |

APPENDICES

- Appendix 1 – Summary of results of the consultation on consultative draft planning guidance
- Appendix 2 – Non-Statutory Planning Guidance on the Change of Use of a Residential Property to Short-term Let, Final version

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All Council Services can offer a telephone translation facility.

1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

| Strategic Implications | Yes / None |
|---|-------------------|
| Community Plan / Single Outcome Agreement | Yes |
| Corporate Plan | Yes |
| Resource Implications | |
| Financial | None |
| Workforce | None |
| Asset Management (land, property, IST) | None |
| Assessments | |
| Equality Impact Assessment | None |
| Strategic Environmental Assessment | Yes |
| Sustainability (community, economic, environmental) | None |
| Legal and Governance | None |
| Risk | None |
| Consultation | |
| Internal | Yes |
| External | None |
| Communication | |
| Communications Plan | Yes |

1. Strategic Implications

Community Plan/Single Outcome Agreement

- 1.1 This report supports the priority within the Community Plan 2022-27 by recognising the need to balance local economic growth with the impact short-term lets can have on the availability of affordable housing.

Corporate Plan

- 1.2 This report supports the objectives within the Corporate Plan 2022-2027 by recognising the need to balance local economic growth with the impact short-term lets can have on the availability of affordable housing.

2. Resource Implications

Financial

- 2.1 N/A.

Workforce

- 2.2 N/A.

Asset Management (land, property, IT)

2.3 N/A.

3. Assessments

Equality Impact Assessment

3.1 Under the Equality Act 2010, the Council is required to eliminate discrimination, advance equality of opportunity, and foster good relations between equality groups. Carrying out Equality Impact Assessments for plans and policies allows the Council to demonstrate that it is meeting these duties. The proposals have been considered under the Corporate Equalities Impact Assessment process (EqIA) with the following outcome:

(i) Assessed as **not relevant** for the purposes of EqIA

Strategic Environmental Assessment

3.2 The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals.

3.3 Proposals have been considered under the Act and pre-screening has identified that the PPS will have no or minimal environmental effects, it is therefore exempt and the SEA Gateway has been notified. The reason(s) for concluding that the PPS will have no or minimal environmental effects is that the planning guidance will be non-statutory and sit within the framework of the National Planning Framework 4 which has undergone full SEA.

Sustainability

3.4 Under the provisions of the Local Government in Scotland Act 2003 the Council has to discharge its duties in a way which contributes to the achievement of sustainable development. Under the Climate Change (Scotland) Act 2009 the Council also has a duty relating to climate change and, in exercising its functions must act:

- in the way best calculated to delivery of the Act's emissions reduction targets;
- in the way best calculated to deliver any statutory adaptation programmes; and
- in a way that it considers most sustainable.

The proposals have been against the Council's Principles for Sustainable Development through the Impact and Value Assessment process.

Legal and Governance

3.5 N/A.

Risk

3.6 N/A.

4. Consultation

Internal

4.1 Advice and views have been sought from colleagues in Development Management and the Economic Development Team in the preparation of this report.

External

4.2 N/A.

5. Communication

5.1 Consultation on the proposed planning guidance was open to the general public across the whole of Perth & Kinross via consultation hub.

2. BACKGROUND PAPERS

2.1 The following documents were referred to or relied upon in preparing this report:

- National Planning Framework 4
- Perth & Kinross Local Development Plan 2