

**Short Term Lets**  
**Engagement Exercise**  
**East Lothian Planning Service**  
**February 2022**



## **Background**

This Engagement Exercise is being undertaken to gather the views of East Lothian residents on the issue of short-term lets and their impact, positive or negative, on East Lothian's communities.

The reason for engaging in this process at present is due to the Scottish Government introducing legislation that allows Local Authorities to create control areas if there is a particular prevalence of short term lets and it deemed that this is creating undesirable impacts on the local community. Planning legislation allows planning authorities to designate all of their area as a control area or parts of their area as one or more control areas. They are not under a duty to designate control areas and may choose not to do so. If control areas are introduced then within these areas short terms lets would require planning permission and their numbers could be restricted.

This note sets out background information on the issue of short term lets, what they are, their prevalence in the main East Lothian settlements and the types of issues that should be considered when considering the need for control areas.

The Scottish Government has released a Guidance document titled Circular 2/2021 which sets out the types of issues that would be relevant to determining if short terms lets control areas are required. It states they could be brought in:

- to help manage high concentrations of secondary letting (where it affects the availability of residential housing or the character of a neighbourhood);
- to restrict or prevent short-term lets in places or types of building where it is not appropriate; or
- to help local authorities ensure that homes are used to best effect in their areas.

Control areas are a land use planning tool and if these controls are introduced, then it is essential that it is due to relevant planning issues being regularly raised as a problem by residents. Within the context of the three issues set out above, relevant planning considerations would include:

- Changes to the look and feel of a neighbourhood, such as multiple keyboxes on many buildings or structures or wheelie suitcase noise on streets and in stairwells.
- Signs that local services are struggling, such as many instances of overflowing bins.
- Lack of affordable and appropriate housing for local residents, perhaps indicated by a high share of sale volumes to, and high prices paid by, non-residents.
- A significantly higher level of complaints relevant to use of dwellinghouses as short-term lets from neighbours spread across a number of tenements or properties than in a comparable area, within or outside the planning authority area.
- Detrimental impact on local amenity, with some businesses, schools or

other services that serve, and are reliant on, permanent residents closing or relocating.

Ultimately, it will be for the Council to determine whether a control area is required taking all relevant local circumstances into account. Prior to making this decision, we are seeking the views of local residents and organisations as to whether they think any of the issues and planning considerations set out above are prevalent in East Lothian and whether this would merit the introduction of control areas. These views are being gathered through an online survey on the East Lothian Consultation Hub.

This note provides further information on the planning issues relevant to short term lets and will assist in the completion of an accompanying survey on the East Lothian Consultation Hub. This survey seeks to gather the views of the public and other interested parties on Short Term Letting in East Lothian. The survey is open from the 3<sup>rd</sup> February 2022 until the 17<sup>th</sup> March 2022, at which point the views provided will help shape a recommended position on whether short term let control areas are a good idea in East Lothian.

### **What is a Short Term Let?**

Short term lets are letting arrangements are those that cater for peoples circumstances where they do not require accommodation for a long period and are normally aimed at the tourist market and workers with very short temporary contracts. The definition covers properties that are either whole houses or flats and are defined within Regulation 2 of the Control Area Regulations 2021 as:

2.—(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 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,
- (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.

The types of properties excluded from the definition are as follows:

- private residential tenancies under section 1 of the Private Housing (Tenancies) Scotland Act 2016; and
- tenancies of a dwellinghouse or part of it where all or part of the dwelling house is the only or principal home of the landlord or occupier

## **What Are The Benefits of a Short Term Let?**

The Short Term Letting sector has experienced growth in recent years and there are a number of reasons for this.

### **Tourism**

The biggest positive effect of short term lets is on the tourism sector. The availability and choice of property types available as short term lets allows people to visit the area and stay in accommodation which suits their needs. Unlike many hotels and B&Bs or guest houses which are typically located in town or city centres, properties available for Short Term Lets tend to offer greater choice of location. Depending on the type of property, they can also offer certain facilities that hotels may not be able to provide, such as exclusive use of a whole house or flat, access to kitchens and food preparation areas, laundry, gardens etc. This allows families, couples, or groups of friends the ability to all stay in the same location and share facilities. This opens up tourism to a wider part of the population who may otherwise not be able to visit the area.

### **Additional income for local residents**

Existing home owners can, subject to any mortgage restrictions, let out part of their property on platforms such as AirBnB providing them with an additional source of income. This can be very useful both for the property owner and also for the tenant. Property owners may find themselves in circumstances that they did not anticipate when buying the property, such as employment changes, family breakups etc. These situations can create problems for being able to afford mortgage payments and therefore risks owners being forced to sell and find a cheaper property. Short term letting can supplement people's income and potentially help them to remain in their home. For tenants, renting a room in a property means that living costs (such as Council tax, utilities etc.) can be shared rather than them the responsibility of the sole tenant which may be unaffordable. They also have the social benefits of living with someone else, which can be helpful if someone is new to the area.

### **Seasonality**

Seasonality is an issue for Short Term Lets. For most areas in Scotland, there is generally a peak tourism season lasting roughly from April – September. Outside of this peak season, many properties can struggle to find occupiers. They can be left empty and unused for months at a time. With a greater choice of rental types available through the Short Term Let market, there is potential for extending the normal peak tourist season. Certain events held in East Lothian (Scottish Open golf, Scottish Half Marathon, Fringe by the Sea, 3 Harbours Arts Festival etc.) typically contribute to the use of short term let properties in the peak season, but may encourage people to visit again outside of these times if they have a positive experience in the area.

Additionally, with East Lothian's proximity to Edinburgh and excellent transport links into the city, Short Term Lets can take advantage of particular events held in the capital (such as the Fringe Festival, Hogmanay etc.) and others outside of the typical tourist season. The existence of short term lets in East Lothian helps to provide accommodation for those who do not wish (or cannot afford) to stay within the city itself but will be visiting it or attending an event.

### **The 2021 Regulations**

The Scottish Government approved new legislation on the 24<sup>th</sup> February 2021 called the *Town and Country Planning (Short-term Let Control Areas) (Scotland) Regulations 2021*. These Regulations came into force on the 1<sup>st</sup> April 2021. They introduce new powers for Local Authorities to help them control and manage short term lettings within their areas. This is through both Licensing and Planning.

Prior to the approval of the new legislation, Local Authorities were invited to respond to consultation on the proposed new powers. A response was provided by East Lothian Council which broadly supported the principle of these new powers. To support the new legislation and provide further clarity on how the act will work in practice, the Scottish Government produced Planning Circular *1\_21 Establishing A Short-Term Let Control Area*. The Circular provides additional information on how planning applications will be determined, arrangements for how Local Authorities must consult with the public when proposing to establish a control area, and the links with licensing regimes.

### **What is a Control Area?**

Under the new legislation, within a Control Area planning permission would always be required to operate a Short Term Let. When a property is originally used as a dwellinghouse, if it is to be used for Short Term Letting then planning permission for a change of use is required. Outside of Control Areas, planning permission is not required.

Control Areas can be designated for the whole of a county or they can be designated for parts of it. The legislation does not require Councils to designate Control Areas if they do not deem it necessary. The legislation simply introduces powers to designate where Councils have sufficient reasons.

The legislation also introduces a new Licensing Order. It means that all short term let properties are required to obtain a license to operate. This includes those not within any Control Area. Local Authorities, as the Licensing Authority, must establish a Licensing Regime to enable these new provisions to be implemented.

The Licensing Order introduces a number of mandatory conditions that will apply to all short term let licenses, if granted. Councils have the ability to add additional conditions to a license. It is therefore essential for Planning and Licensing Teams to work together and in collaboration with other Services in order to meet the requirements of the new act.

The Scottish Government has given Councils until the 1<sup>st</sup> October 2022 to establish a regime for Licensing. New operators of short term lets will not be able to take any bookings until they have applied for and been granted a license. Existing operators of short term lets (those operating before 1<sup>st</sup> October 2022) will have until the 1<sup>st</sup> April 2023 to apply for a license.

### **East Lothian Context**

At the time of writing, there are 572 listings of Short Term Lets available in East Lothian. The vast majority of these are whole houses (87%), with the remainder being private rooms (e.g. within a flat which is part of a block usually also containing private residential dwellings). The properties are listed on AirBnB ([www.airbnb.co.uk](http://www.airbnb.co.uk)) with some also listed on VRBO ([www.vrbo.com](http://www.vrbo.com)). Whilst listings exist on other websites or platforms, these are typically duplicate listings of those seen on AirBnB and VRBO. This paper therefore focusses on the listings within those two platforms.

The location of Short Term Let properties in East Lothian is generally concentrated in urban areas, with highest numbers in designated town centres and just beyond. Smaller clusters or sometimes single properties can be found in the smaller villages and hamlets of East Lothian's more rural areas.

The table below provides figures for the total number of Short Term Let properties in five of East Lothian's main towns. It also shows figures for the designated town centres, or local centres for smaller settlements. These are then shown as a percentage of total dwellings or dwellings within town or local centres.

	<b>Dwellings (settlement)</b>	<b>Total STLs</b>	<b>% of STLs (settlement)</b>	<b>Dwellings (TC/LC)</b>	<b>Total STLs in TC/LC</b>	<b>% of STLs (TC/LC)</b>
<b>Dunbar</b>	4,976	42	0.8%	485	18	3.7%
<b>Musselburgh</b>	12,639	43	0.3%	819	7	0.85%
<b>North Berwick</b>	4,261	153	3.59%	315	50	16%
<b>Haddington</b>	5,477	20	0.37%	496	6	1.2%
<b>Gullane</b>	1,533	45	2.94%	80	12	15%

The figures provide here are approximate due to the information available on the exact location of AirBnB properties only being available once a booking is confirmed by the owner/operator. Therefore these figures are only to be used as a guide.

### **Why is the Legislation required?**

Prior to this new legislation, the need to apply for planning permission to operate a Short Term Let was for Councils to decide on a case by case basis. This meant that many

properties could and were being used for this purpose without the need for any planning consent, or any planning controls such as conditions.

Therefore Local Authorities had little control over where and how many properties were used for Short Term Letting purposes. Councils were also only able to exercise control through Police Scotland (where a crime had or was suspected of having been committed) or through Safer Communities Service where there were concerns or complaints raised regarding issues such as noise or antisocial behaviour.

The Scottish Government wanted to provide Local Authorities with the opportunity to have more control over Short Term Lets in their respective areas, in order to help to manage both the effects on local housing needs and stock, and the effects associated with amenity and antisocial behaviour. Whilst the majority of Short Term Lettings operate without any issues, there can be instances where properties are causing problems for neighbouring residents (e.g. noise caused by occupants) or through environmental issues such as excess rubbish.

As well as the environmental issues there are a range of other factors that could be relevant in determining whether any planning controls over short term lets are required. The Circular sets out the issues that would form material planning considerations when assessing an application for planning permission for a short term let. These are detailed below with some local East Lothian context provided where possible.

#### Changes to the look and feel of a neighbourhood

Under this issue, the Circular gives examples such as keyboxes appearing on multiple buildings, or frequent noise from suitcases being wheeled along pavements or streets.

The most likely location where these issues would be more prevalent are town centres as these typically contain the highest numbers of Short Term Let properties.

The character of an urban area can be gradually changed if for example there are too many external additions to buildings such as keyboxes, signage either attached to a building or within the curtilage, or even through increases in the number of vehicles parked outside buildings.

Another potential issue, although this is not specifically related to Short Term Lets, is for buildings to be maintained to a high standard externally. Repainting of buildings and appropriate management and care for stone or brickwork is important for retaining the character of an area.

Determining whether short term lets are impacting upon the look and feel of an area is something that will need to be monitored over time, and also on each individual planning application for change of use to a short term let. In particular, sensitive locations such as conservation areas will need to be closely monitored.

Although more difficult to quantify, changes to the look and feel of a neighbourhood can be more subtle, but for existing (permanent or long term) residents, they can be just as

damaging. Whilst it is not considered to be a significant issue in East Lothian at the moment, the existence of too many short term let properties can affect neighbourhoods through reducing social cohesion. There could be a decline over time in permanent residents who previously knew each other leaving some feeling more isolated. It is possible that a previously quiet neighbourhood could become noisier particularly at night through more frequent movement of people. All these issues can impact upon how safe people feel in their neighbourhood, can make people feel more uncomfortable, or less inclusive.

Again, this will need to be monitored over time and the Council will be seeking people's views on these matters through the dedicated Short Term Lets public consultation. The annual residents' survey could also provide some additional information depending on responses.

#### Struggling services (e.g. waste and overflowing bins)

There is some evidence at the national level that, in some areas, short term let properties tend to experience issues related to excess rubbish. This can either be related to the hosts not managing their property appropriately, or through the behaviour of guests. The issue may not be directly outside the property but could be seen in the wider street or neighbourhood where for example bins fill up very quickly and start to overflow.

The consultation on Short Term Lets give the opportunity for you to provide comments on any areas you feel are problematic at the moment. The Council will continue to liaise with our own Waste Collection Service regarding any areas that they become aware of such problems or changes over time.

#### Lack of affordable and appropriate housing for local residents

The existence of short term let properties can negatively impact upon the housing market. This is particularly the case in areas where, for example, affordable housing is limited both in terms of existing stock and in the amount of new stock programmed to be built. Short term let properties are often owned as a private individual's second property (such as a buy-to-let) or they are part of a commercial company's property portfolio where they own multiple properties for letting purposes.

Additionally, short term letting can impact upon the private rental sector. This is because it is often seen as more attractive (and profitable) to rent properties on a short term basis allowing higher rates to be charged and also allowing a wider potential customer base. It is also possible that landlords may decide to increase monthly rental costs on long term rentals if they frequently see short term lets at higher prices. Within the rental sector, a common tenure is a flat share where tenants have their own private bedroom but share other parts of the property (such as a kitchen, bathroom, and living room) with one or more people. This rental type is often very helpful for people who cannot afford to rent an entire flat or house by themselves. Again, it is possible that property owners may wish to offer their spare room/s as a short term let rather than a long term rental due to higher rates.



With home ownership increasingly difficult for people to attain due to rising costs of living and rising property prices, the existence of too many short term let properties in the county could further reduce people's ability to get on the property ladder.

As many of the properties available for short term let are flats, this means that potential buyers, especially first time buyers who may only be able to afford a town centre flat, are not able to purchase a property. People therefore may end up being forced to live in an area that they do not wish or that is not that suitable for their needs e.g. longer commute to place of work. Also, where short term lets exist in rural communities with small housing stocks, there may be an issue for rural economy if there are no properties available for small business owners for example.

Another issue with high numbers of short term lets is through Buy-to-Let. Again, many buy-to-let properties are second properties for the owners, offering properties to let at high prices. Second homes could cause issues for people hoping to secure their own home.

All these factors, together with the relatively small rental market in East Lothian, could potentially limit choice for people, either those wishing to move into the area or those wishing to move elsewhere within the county. Whilst the cost of property and whether it is owned by a local resident or by a professional company, is not a material planning consideration for assessing applications, the Council has a duty to ensure that there is a range of affordable properties available in the area. This is an issue that the current Local Development Plan 2018 and the forthcoming Local Development Plan 2 will address. This is one strategy, together with the Local Housing Strategy and also the draft Poverty Plan, which the Council will use to address these issues.

With specific reference to the new Short Term Let legislation and planning requirements, the Council will work closely with the Housing Strategy team to monitor changes over time, and help to inform decisions on whether control areas may be required. The online consultation provides an opportunity to provide comments on whether you believe short term lets are causing a problem for finding suitable affordable accommodation.

### Complaints

Prior to the introduction of the new Short Term Let legislation, the use of the complaints system was one of the few methods of monitoring short term let properties. The nature of complaints is typically related to litter, noise and/or antisocial behaviour. The Planning Circular 1/21 stipulates that the number of complaints should be used when assessing applications for short term lets as a material consideration. This will require continued liaison with a number of ELC teams in order to obtain up to date information to inform decisions.

However, for East Lothian, there is little evidence at the moment to show that short term let properties are causing these problems, or that the issue is significant enough for a complaint to be made. Between the 1<sup>st</sup> January 2018 and October 2021, there were only two complaints received by East Lothian Council relating to Short Term Let (AirBnB)

properties. This shows an overall low level of antisocial behaviour problems associated with these properties.

Whilst it could be argued that there are more cases going unreported, and that the covid-19 pandemic has led to fewer complaints with tourism not operating for much of 2020 and 2021, the timeframe includes 2018 and 2019 when tourism was still at the normal pre-pandemic levels. This will continue to be monitored both in terms of overall numbers of complaints but also the location of the problems. Significant increases in complaints within a particular area could mean that intervention, in the form of a control area, is required.

The Licensing regime and planning process will allow greater control over how STLs operate, and should any complaints arise, then these can be dealt with through a joined-up approach.

#### Local amenity (economy – e.g. businesses or other services closing/relocating where they rely on permanent residents in an area)

The existence of Short Term Lets arguably helps to support the tourism sector both through the accommodation in which people stay but also through spending in the local area at shops, restaurants and tourist attractions.

There is however potential for short term lets, if they become too prevalent, to impact on local services in a negative way. Services that depend upon local people (or more permanent residents) such as libraries, solicitors etc. or those that rely upon regular and relatively fixed sales e.g. hair salons, pet shops etc. could experience significant reduction in profit if there are not enough local people living in an area that need them. These services are typically not going to be used by occupants of short term let properties, as they are (generally speaking) mostly used for tourism, business trips, or visiting family or friends. Services could therefore be forced to close and/or relocate. This in turn has a negative impact upon the local area, becoming less vibrant and also means that remaining residents have poorer access to services that they need.

As with any tourist accommodation, short term lets can easily be used by guests simply as a base, with travel for example into Edinburgh where spending occurs.

Many of the properties available for short term let provide guests with additional facilities not usually available at hotels, such as kitchens or food preparation areas. This could encourage greater use of self-catering and less spending on local cafes and restaurants.

It is therefore necessary to monitor over a longer period of time to see whether there is in fact a correlation between the increases in short term let properties in an area and the gradual loss of local businesses. It is expected that monitoring could be done through close working with the Economic Development and Tourism sectors of East Lothian Council. The online short term lets consultation seeks views on whether there have been changes to the level of services within given areas and the reasons for this to ascertain whether short term lets are having an impact.

## **Why we are consulting**

East Lothian Council commissioned a study in 2019 to ascertain the impacts of Short Term Lets on the tourism sector. This was carried out by Avison Young and involved a survey sent out to various owners/operators of Short Term Let properties. Based on the results of the study, it was determined that the impacts of the new legislation on East Lothian's tourism sector would be minimal.

However, the study did not consider in depth the impacts of Short Term Lets on local housing, including home ownership and the private rental sector.

We are now conducting this public consultation inviting everyone from our communities to respond. The purpose of the consultation is to gather opinions and evidence to determine whether it is in the best interests of East Lothian and the public to designate any Control Areas or not. One of the most effective ways of gathering local information is to seek the views of the people who live in the communities and have direct day to day experience of living in the areas in which Short Term Let properties exist.

A number of Planning Authorities are already proposing to designate all or part of their areas as Control Areas. Should East Lothian Council determine that there is a need to establish one or more Control Areas, we will be required to prepare a Statement of Reasons for the designation, including a boundary. There would then be a public consultation on the proposed designation with opportunities for anyone to comment or object. More information on the designation process can be found in Planning Circular 1\_21.

## **Proposed consultation arrangements**

The Planning Service are running the public consultation for 8 weeks and this will involve an online survey published on the Consultation Hub between the 14<sup>th</sup> February and 11<sup>th</sup> April 2022. The availability of the consultation will be widely advertised on the East Lothian Council website, social media pages, newspaper notice, and also by direct email or letter notification to particular organisations or interested parties.

The survey is designed as a multiple choice response with an extra space per question for additional comments to be included by the respondent. Included with the consultation is an Information Sheet, similar to this Briefing Note, a copy of the Short-term let Control Area Regulations 2021, and a copy of Planning Circular 1\_21: Establishing a Short-term Let Control Area. It is also proposed to include a map indicating concentrations of Short Term Lets in East Lothian. This is currently still in the development stage and will be confirmed nearer the time.

## **What will happen after the consultation?**

Following the closing of the public consultation, we will analyse all the information gathered through the responses and a report will be taken to East Lothian Council detailing the findings. This will also provide recommendations as to the next steps. The findings will also help to inform the approach taken within the next Local Development Plan (LDP2).

## **Reference List**

Scottish Government - *Research into the impact of short-term lets on communities across Scotland* (2019) People, Communities and Places – Social Research

<https://www.gov.scot/binaries/content/documents/govscot/publications/research-and-analysis/2019/10/research-impact-short-term-lets-communities-scotland/documents/people-communities-places-research-impact-short-term-lets-communities-scotland/people-communities-places-research-impact-short-term-lets-communities-scotland/govscot%3Adocument/people-communities-places-research-impact-short-term-lets-communities-scotland.pdf>

*Far More Than Just Houses: The Benefits of the Short-Term Rental Sector to Scotland* – Association of Scotland’s Self-Caterers (2018)

<https://www.assc.co.uk/wp-content/uploads/2018/06/MoreThanJustHouses.pdf>

Home or hotel? A contemporary challenge in the use of housing stock (2021) - Tom Simcock Housing Studies. Routledge: Taylor & Francis Group

*Short Term Letting and the Housing Crisis* – Association of Scotland’s Self-Caterers (2020)

Short-term Lets Registration White Paper – AirBnB and the University of Brighton

<https://www.airbnb.co.uk/d/ukwhitepaper>

<https://www.airdna.co/>

<https://www.visiteastlothian.org/home>