Supporting self-catering in Scotland

ASSOCIATION OF SCOTLAND'S SELF-CATERERS (ASSC)

RESPONSE TO HIGHLAND COUNCIL CONSULTATIONS ON PROPOSED SHORT-TERM LET CONTROL AREAS

Highland Rural STLCA and Inverness City STLCA

Founded in 1978, the Association of Scotland's Self-Caterers (ASSC) is the national trade body representing Scotland's self-catering and short-term let sector. Representing more than 1,700 members across urban, rural, island and remote communities, ASSC champions a professional, sustainable and responsible visitor economy that supports local livelihoods, communities and Scotland's wider tourism sector.

ASSC works at the forefront of policy, regulation and industry development, advocating for evidence-led decision making, fair and proportionate regulation, and the long-term sustainability of Scotland's tourism and hospitality economy.

Introduction

The Association of Scotland's Self-Caterers (ASSC) welcomes the opportunity to respond to Highland Council's consultations on the proposed designation of:

- the Highland Rural Short-Term Let Control Area (Highland Rural STLCA); and
- the Inverness City Short-Term Let Control Area (Inverness City STLCA).

The self-catering sector comprises overwhelmingly small and microbusinesses, many of which:

- are owner-operated;
- support rural diversification;
- sustain fragile local economies;
- provide essential visitor accommodation infrastructure;
- and contribute significantly to local employment and supply chains.

Across Highland in particular, self-catering accommodation forms a critical part of the tourism and hospitality ecosystem, supporting visitor dispersal, local services, rural employment and community sustainability in areas where alternative accommodation provision is often limited.

The ASSC supports proportionate, evidence-based and legally robust regulation.

However, the ASSC has serious concerns regarding:

- the evidential basis for the proposed expansion of Planning Control Areas ("PCAs");

- the absence of demonstrated housing benefit arising from the existing Badenoch and Strathspey Control Area;
- the failure adequately to distinguish between different forms of tourism accommodation and conventional housing loss;
- the cumulative interaction between planning and licensing regimes;
- the absence of meaningful economic impact assessment;
- and the significant legal uncertainty and practical consequences now facing existing lawful operators.

The ASSC is particularly concerned that Highland Council is proposing one of the largest expansions of Short-Term Let Control Areas in Scotland before demonstrating, on the basis of robust evidence, that the existing model has materially achieved its intended policy objectives.

The central issue is not whether housing pressures exist. They clearly do.

Rather, the issue is whether the proposed interventions:

- are evidence-led;
- proportionate;
- economically balanced;
- legally robust;
- and capable of delivering measurable public benefit without creating disproportionate interference with longstanding lawful businesses and Scotland's wider visitor economy.

The ASSC remains committed to constructive engagement with Highland Council and the Scottish Government in pursuit of a lawful, proportionate and workable framework. However, where measures are pursued absent sufficient evidence, legal certainty or proportionality, significant concerns arise regarding compatibility with established public law principles, Article 1 Protocol 1 (A1P1) rights, and the Provision of Services Regulations 2009.

The ASSC's position remains that:

- existing operators who commenced trading lawfully and transparently prior to the introduction of the 2022 licensing framework, and at a time when planning permission was not generally understood or expressly advised to be required in many cases, should be expressly protected through appropriate grandfathering provisions;
- operators who have subsequently complied with the statutory licensing regime should not face disproportionate retrospective procedural or regulatory burden arising from evolving interpretation of planning policy and practice;
- and that long-term clarity should instead be pursued through development of a formal Use Class Order capable of delivering national consistency, legal certainty and a more proportionate planning framework.

PART 1: DEFINITONAL CLARITY AND THE IMPORTANCE OF DISTINGUISHING SELF-CATERING FROM "SHORT-TERM LETS"

A central concern throughout the current policy and regulatory debate is the increasingly imprecise and interchangeable use of the terms:

- "short-term let";
- "secondary let";
- and "self-catering accommodation".

These are not synonymous concepts.

"Short-term let" is a broad regulatory category created for licensing purposes under the Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022.

It encompasses an extremely wide range of accommodation types and operating models, including:

- home sharing;
- home letting;
- self-catering cottages;
- glamping;
- annex accommodation;
- cabins and lodges;
- and conventional secondary letting.

By contrast, "self-catering accommodation" has historically formed part of Scotland's recognised tourism and hospitality infrastructure.

Self-catering is fundamentally hospitality-led in character and forms a longstanding part of Scotland's visitor economy. It supports:

- family tourism;
- rural diversification;
- dispersed tourism;
- local employment;
- and sustainable visitor capacity across communities where traditional hotel infrastructure is limited.

The ASSC is concerned that current policy discourse increasingly collapses these distinct categories into a single narrative framework centred primarily around housing loss.

This creates several risks. First, it obscures the substantial diversity within the sector itself.

Many self-catering businesses:

- are owner-operated;
- comprise one or two units only;
- operate in rural or island communities;
- are hospitality rather than investment-led;
- and include accommodation types that would never realistically contribute to mainstream residential housing supply.

Secondly, broad reliance on aggregated "STL" statistics risks materially overstating the extent to which tourism accommodation is directly displacing conventional residential housing.

Thirdly, the language itself increasingly shapes perception and policy response. The same property may be characterised very differently depending upon whether it is described as:

- "self-catering accommodation"; or
- a "short-term let".

Yet the underlying use may be identical. This distinction matters because:

- planning policy;

- licensing;
- housing analysis;
- economic assessment;
- and public consultation

all depend upon accurate categorisation and evidence-led understanding.

The ASSC therefore strongly encourages Highland Council and Scottish Ministers to distinguish more carefully between:

- hospitality-led self-catering accommodation (secondary lets);
- home sharing and home letting;
- speculative residential acquisition;
- and forms of accommodation genuinely capable of contributing to long-term mainstream housing supply.

Without that definitional clarity, there is a substantial risk that policy interventions become overly broad, poorly targeted and ultimately ineffective in addressing the underlying structural causes of housing pressure.

PART 2: POLICY EXPANSION WITHOUT DEMONSTRATED POLICY SUCCESS

The most fundamental concern is that Highland Council is proposing one of the largest expansions of Short-Term Let Control Areas in Scotland without first demonstrating that the existing model has achieved its intended objectives.

The Council's own "Post 2 Year Review of the Ward 20 Badenoch and Strathspey Short Term Let Control Area" repeatedly acknowledges:

- limited data availability;
- incomplete evidence;
- ongoing market adjustment;
- post-pandemic distortion;
- and the need for continued monitoring before robust conclusions can be drawn.

The report identifies only "early signs" that growth "may" have slowed.

Critically, the Council has not demonstrated:

- increased affordable housing supply;
- reduced rents;
- improved affordability;
- increased permanent occupancy;
- reduced depopulation;
- or measurable housing market stabilisation.

Highland Council's own FOI response (April 2026) confirms:

- no comprehensive impact assessment has been undertaken;
- no formal success metrics exist;
- and no measurable housing outcomes have yet been demonstrated.

The ASSC submits that expansion of a regulatory framework before establishing whether it is effective is neither evidence-based nor proportionate.

PART 3: FAILURE TO DISTINGUISH BETWEEN DIFFERENT TYPES OF ACCOMMODATION

The consultation documents repeatedly rely upon:

- overall STL concentrations;
- adjusted STL prevalence;
- and aggregated STL growth data.

However, the actual policy concern identified by Highland Council relates specifically to:

the loss of former residential dwellings.

Those are not equivalent categories.

The evidence base fails adequately to distinguish between:

- conventional secondary letting;
- home sharing;
- annex accommodation;
- cabins and lodges;
- croft diversification;
- purpose-built visitor accommodation;
- and accommodation unsuitable for permanent residential occupation.

Many self-catering properties:

- were never part of effective residential housing stock;
- are seasonal tourism accommodation;
- are economically unviable as permanent housing;
- or exist in locations where long-term residential demand is limited.

Broad STL statistics alone therefore cannot justify sweeping intervention into lawful tourism businesses without more precise evidence regarding:

- conventional dwellinghouses;
- capable of mainstream residential occupation;
- demonstrably removed from effective housing supply.

PART 4: EMPTY HOMES, SECOND HOMES AND WIDER HOUSING CONTEXT

The consultations fail properly to contextualise short-term lets within the wider housing landscape.

ASSC analysis demonstrates that:

- secondary lets account for approximately 0.8% of Scotland's housing stock;
- while economically inactive empty homes account for approximately 3.6%.

BiGGAR Economics similarly concluded that:

- in every Scottish local authority area, empty homes exceed secondary lets as a proportion of total dwellings.

If the objective is increasing effective housing supply, addressing:

- long-term empty homes;
- infrastructure constraints;
- stalled development;
- and wider housing delivery barriers

would likely yield materially greater benefit.

The ASSC fully recognises that housing pressures exist across Highland. However, recognition of housing pressure does not automatically validate every proposed intervention.

The relevant policy question must still be:

- whether the intervention will work;
- whether it is proportionate;
- and whether the evidence supports the proposed measures.

At present, Highland Council has not demonstrated that the proposed expansion satisfies those tests.

PART 5: ECONOMIC CONTRIBUTION AND TOURISM SUSTAINABILITY

The consultations significantly underweight the economic contribution of the self-catering sector.

Independent analysis by BiGGAR Economics found that:

- STLs contribute approximately £1bn nationally;
- support over 29,000 jobs;
- and generate approximately £200m GVA in Highland alone while supporting nearly 7,000 jobs.

The Highlands account for the single largest regional contribution within Scotland's STL economy.

The sector supports:

- hospitality businesses;
- restaurants;
- visitor attractions;
- tradespeople;
- cleaning businesses;
- transport providers;
- local retail;
- and fragile rural economies.

Many Highland communities rely heavily upon tourism infrastructure to sustain:

- local employment;
- year-round economic activity;
- community viability;

- and visitor dispersal.

Yet Highland Council has produced no meaningful economic impact assessment quantifying:

- reduced visitor capacity;
- business closure risk;
- tourism displacement;
- investment deterrence;
- or supply chain impacts.

That omission is striking.

The consultations repeatedly frame the issue as one of:

- housing versus tourism.

That is a false binary.

Sustainable communities require:

- both housing;
- and viable local economies.

Without economically sustainable communities:

- depopulation accelerates;
- services decline;
- schools weaken;
- and young families continue to leave rural areas.

PART 6: INTERACTION BETWEEN PLANNING AND LICENSING REGIMES

ASSC remains deeply concerned regarding the cumulative interaction between:

- Section 26B Planning Control Areas;
- Mandatory Condition 13 (“MC13”) of the licensing regime;
- NPF4 Policy 30(e);
- and licensing continuation and renewal processes.

The practical concern is no longer merely theoretical uncertainty regarding whether planning permission may be required in some cases.

Rather, the concern is that the operational interaction between these overlapping statutory regimes now risks creating a procedurally burdensome and functionally exclusionary framework for existing lawful operators.

Highland Council has confirmed that:

- all licence applications within designated control areas are automatically referred to Planning for assessment;
- Planning will assess whether a material change of use is considered to have occurred;
- and operators may then be expected to engage with Planning, pursue a CLEUD application, or apply for planning permission in order to satisfy MC13 requirements.

In practice, this creates a materially different procedural environment for operators inside a Control Area compared with materially identical operators outside it.

The practical effect is that:

- existing operators may be subjected to fresh planning scrutiny during licensing processes;
- preliminary planning views may trigger pressure to pursue formal lawfulness applications;
- operators may incur substantial professional and evidential costs;
- and continuation of licensing may become dependent upon resolution of uncertain planning status questions.

This concern is amplified by:

- highly discretionary planning tests under NPF4 Policy 30(e);
- absence of any statutory definition of "material change of use";
- inconsistent interpretation across Scotland;
- lack of clear evidential thresholds;
- procedural inconsistency between authorities;
- the increasingly blurred operational boundary between planning and licensing functions; and
- the reality that, while the underlying legal framework governing material change of use has not fundamentally altered, the policy environment, regulatory scrutiny and political sensitivity surrounding the short-term let sector have changed significantly over recent years.

As a result, many operators who commenced trading lawfully and transparently in good faith at a time when there was little or no indication that planning permission would be required now face substantial uncertainty arising not from changes in the underlying law itself, but from evolving interpretation, enforcement appetite and planning policy context.

Increasingly, the practical operation of the system appears to use the licensing process itself as the mechanism through which planning lawfulness is first interrogated and tested.

That creates substantial legal and procedural uncertainty for existing lawful operators.

PART 7: EXISTING OPERATORS, RETROSPECTIVITY, PROPORTIONALITY AND LEGAL RISK

The Court of Session has already addressed these issues directly.

In *Muirhead*, Lord Braid held:

"The Scottish Parliament did not intend that section 26B should have retrospective effect…"

The Court further characterised retrospective interpretation as:

"not only unfair, but illogical."

Importantly, Highland Council now publicly accepts that:

- pre-designation uses remain subject to ordinary materiality assessment;
- existing operators may not require planning permission;
- and MC13 applies only where planning permission is genuinely required under the 1997 Act.

ASSC welcomes that clarification in principle.

However, significant uncertainty remains in practice regarding:

- how materiality assessments are undertaken;
- what evidential thresholds are applied;
- what procedural burdens operators may face;
- and the extent to which operators are effectively expected to obtain CLEUDs defensively in order to avoid licensing difficulty.

The current operational approach risks creating:

- automatic Planning scrutiny within Control Areas;
- pressure to rebut preliminary planning views;
- expectation of defensive CLEUD applications;
- and substantial procedural and financial burdens

despite no equivalent process applying to materially identical operators outside Control Areas.

This creates serious concerns regarding:

- fairness;
- legal certainty;
- legitimate expectation;
- proportionality;
- and consistency of treatment.

The ASSC considers that any attempt to apply these measures in a manner which creates disproportionate barriers to continued operation for longstanding lawful businesses may expose Highland Council to significant legal challenge, including under:

- Article 1 Protocol 1 ("A1P1") of the European Convention on Human Rights;
- the Provision of Services Regulations 2009;
- and broader principles of administrative fairness and proportionality.

Operators across Highland have:

- invested substantial capital;
- organised businesses in reliance upon longstanding lawful use;
- entered financing arrangements;
- secured insurance;
- employed staff;
- and contributed openly to local economies for many years.

Interference with those established economic interests requires:

- clear legal basis;
- demonstrable public benefit;
- necessity;
- and strict proportionality.

At present, Highland Council has not demonstrated:

- measurable housing benefit arising from the existing PCA regime;
- sufficient causal evidence;
- or adequate balancing of economic consequences.

The proportionality of imposing escalating regulatory burdens therefore becomes increasingly difficult to justify.

The ASSC's position remains that:

- pre-2022 operators should be expressly grandfathered in terms of planning;
- existing lawful operators should be protected from retrospective procedural burden;
- and clear statutory certainty should be introduced nationally.

The ASSC would support a proportionate and legally robust framework incorporating express protections for pre-2022 operators and remains committed to working constructively with the Highland Council, Scottish Government and stakeholders on development of a formal Short-Term Let Use Class Order capable of delivering:

- legal certainty;
- national consistency;
- clearer planning distinction;
- and a more proportionate long-term framework.

PART 8: SPECIFIC COMMENTS ON THE HIGHLAND RURAL STLCA

The proposed Highland Rural STLCA covers an exceptionally large and economically diverse geographical area.

ASSC is concerned that:

- broad geographic designation risks overreach;
- localised evidence is being extrapolated too widely;
- and substantial differences between communities are insufficiently recognised.

The proposal also relies heavily upon:

- broad STL concentration data;
- demographic concerns;
- and generalised housing pressure,

without adequately demonstrating direct causation.

In particular, the consultation materials increasingly imply causal relationships between STL prevalence and:

- school closures;
- Gaelic decline;
- depopulation;
- and fragile community sustainability.

However, the Scottish Government's own research into island and rural depopulation recognises that these challenges are long-term, structurally complex and driven by multiple interconnected factors, including:

- infrastructure;
- transport connectivity;
- education access;
- demographic ageing;

- employment opportunities;
- service sustainability;
- housing supply;
- and wider economic change.

The same research also highlights the importance of:

- sustainable local economies;
- tourism;
- diversified income sources;
- and community resilience measures

in supporting fragile and remote communities.

ASSC is therefore concerned that the consultation risks attributing exceptionally complex demographic and cultural trends to STL prevalence without sufficiently robust longitudinal or causal evidence.

Indeed, in many Highland communities, tourism and self-catering accommodation may form part of the economic conditions that enable:

- residents to remain locally;
- local services to survive;
- rural businesses to diversify;
- and communities to maintain long-term viability.

The ASSC respectfully submits that:

- correlation should not be conflated with causation;
- and that policy interventions of this scale require a far more robust evidential basis before significant restrictions are imposed upon lawful tourism accommodation businesses.

PART 9: SPECIFIC COMMENTS ON THE INVERNESS CITY STLCA

ASSC acknowledges that urban housing pressures in Inverness differ materially from those within rural Highland.

However, the same evidential concerns remain.

The Council has not demonstrated:

- that STL growth is the primary driver of affordability pressures;
- that PCA designation materially improves housing outcomes;
- or that the proposed intervention is proportionate relative to the scale of demonstrated impact.

The ASSC also notes that:

- Inverness functions as a major tourism and business hub;
- visitor accommodation flexibility is strategically important;
- and tourism demand supports significant economic activity throughout the region.

Conclusion

The ASSC respectfully submits that Highland Council has not demonstrated, on the basis of sufficiently robust evidence, that:

- existing Planning Control Areas materially improve housing affordability or effective housing supply;
- the proposed expansion would deliver measurable public benefit proportionate to the scale of economic and regulatory intervention proposed;
- less intrusive or more targeted alternatives would be insufficient;
- or that the cumulative interaction between planning, licensing and wider regulatory frameworks is capable of operating fairly, consistently and proportionately in practice.

The consultations repeatedly rely upon:

- broad STL prevalence data;
- generalised housing pressure;
- and inferred demographic relationships,

without adequately establishing direct causation or sufficiently distinguishing between:

- hospitality-led self-catering accommodation;
- conventional secondary letting;
- and forms of accommodation genuinely capable of contributing to mainstream residential supply.

At the same time, the proposals carry potentially significant consequences for:

- tourism capacity;
- rural economies;
- business viability;
- investment confidence;
- and community sustainability across Highland.

The ASSC is particularly concerned that the proposed expansion is being advanced before Highland Council has demonstrated that the existing Badenoch and Strathspey Control Area has materially achieved its intended policy objectives.

The proportionality of imposing escalating procedural and regulatory burdens upon longstanding lawful operators becomes increasingly difficult to justify where:

- measurable housing outcomes remain unproven;
- economic impacts have not been adequately assessed;
- and substantial legal uncertainty continues to exist regarding the interaction between planning and licensing regimes.

The ASSC further considers that any application of these measures which creates disproportionate or effectively retrospective barriers to continued operation for existing lawful businesses may expose Highland Council and Scottish Ministers to significant legal challenge, including under:

- Article 1 Protocol 1 ("A1P1") of the European Convention on Human Rights;
- the Provision of Services Regulations 2009;
- and wider principles of fairness, legal certainty and proportionality.

The ASSC therefore urges Highland Council and Scottish Ministers to:

- pause further PCA expansion pending robust evaluation of existing control areas;
- undertake comprehensive economic and regulatory impact assessment;
- establish transparent and measurable success criteria;
- provide express statutory protection for existing lawful operators, particularly those operating prior to the introduction of the 2022 licensing framework;
- and work collaboratively with the sector towards development of a formal Short-Term Let Use Class Order capable of delivering long-term legal certainty, national consistency and a more proportionate planning framework.

Scotland's housing challenges are real and require serious, evidence-led policy solutions.

However, lawful self-catering businesses should not become a proxy target for broader structural housing failures absent robust evidence that the proposed interventions will:

- materially achieve their stated objectives;
- withstand proper scrutiny on proportionality grounds;
- and avoid causing significant unintended economic and community harm.

Fiona Campbell MBE

Chief Executive, Association of Scotland's Self-Caterers

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