

# Aberdeen Planning Guidance: Short-term Lets

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# 1. Introduction

## 1.1 Status of Aberdeen Planning Guidance

This Aberdeen Planning Guidance (APG) supports the Aberdeen Local Development Plan 2023 and is a material consideration in the determination of planning applications. The Local Development Plan does not contain a specific planning policy relating to Short-term Lets (STLs), however it states that APG may be provided on the topic. In providing guidance on STLs, this APG primarily relates to applicable zoning policies for each site and the following Local Development Plan policies:

- VC2 – Tourism and Culture
- D1 – Quality Placemaking
- D2 – Amenity
- T2 – Sustainable Transport
- T3 – Parking
- R5 – Waste Management Requirements for New Developments

This APG also supports Policy 30 (Tourism) of National Planning Framework 4 (NPF4), which states that proposals to change the use of existing buildings to STLs will not be supported where they would result in *“an unacceptable impact on local amenity or the character of a neighbourhood or area”* or *“the loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits”*. The APG provides guidance on how these criteria will be implemented in an Aberdeen context.

## 1.2 Introduction to Topic / Background

As a result of the Civic Government Scotland Act 1982 (Licensing of Short-term Lets) Order 2022, local authorities were required to establish a licensing scheme for STLs by 1 October 2022. The legislation was brought in to ensure STLs are safe, to address issues faced by neighbours, and to help local authorities understand what is happening in their area. A period between 1 October 2022 and 1 October 2023 was allowed to enable existing STL operators to apply for a licence and, if required, planning permission.

If a property meets the definition of an STL under licensing legislation, it will require a licence<sup>1</sup>. However, it does not automatically require planning permission for use as an STL. As there are currently no STL control areas in Aberdeen (see more detail on STL control areas in section 2.1 below), it is for the planning authority to decide if the use of an existing property as an STL represents a 'material change of use'. If the proposal is considered to represent a material change of use, this constitutes 'development' that will require planning permission. This APG provides guidance on the factors that the Council will consider when determining whether the use of an existing property as an STL represents a material change of use such that it will require planning permission. It also provides guidance on the factors that the Council will take into account when assessing any planning applications for the change of use of an existing property to an STL.

### **1.3 Climate Change**

The provision of STLs in locations which are accessible by a range of sustainable methods of transport can help to reduce carbon emissions related to transport and can therefore make a contribution to the built environment's transition towards net zero. The contents of this APG therefore relate to [UN Sustainable Development](#) Goal 11 (Sustainable Cities and Communities).

### **1.4 Health and Wellbeing**

Where we live, where we work, and where we spend our time has an important influence on our health and wellbeing. How places are designed within their urban or natural environment is vital to the health of the people and communities within them. Maintaining a good mix of different housing types and tenures helps promote a sense of belonging and a sense of control.

This guidance can help to achieve the following Public Health Priorities for Scotland:

- Priority 1 – A Scotland where we live in vibrant, healthy and safe places and communities;
- Priority 3 – A Scotland where we have good mental wellbeing; and
- Priority 5 – A Scotland where we have a sustainable, inclusive economy with equality of outcomes for all.

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<sup>1</sup> STL licensing is a separate process to the requirement for planning permission. The licensing of STLs in Aberdeen is administered by the Council's Private Sector Housing Unit. This APG does not provide guidance on STL licensing. More information on licensing requirements for STLs is available on the Private Sector Housing Unit's [webpage](#) and in their [Short-Term Lets Licensing Guidance Note](#).

This guidance is deemed to have minimal impact on the population health and wellbeing. This means that, whilst it is unlikely a Health Impact Assessment (HIA) screening report will be requested, this will depend on the detail and scope of the application. There may be elements of the proposals that relate to the health and wellbeing of the population that warrant consideration. If that is the case, then a screening HIA may be required.

## **2. Aberdeen Planning Guidance**

### **2.1 Short-term Lets, Control Areas and the Need for Planning Permission**

Short-term Lets (STLs) essentially involve the short-term provision of accommodation by a host in the course of business to a guest. Planning legislation covering the topic of STL control areas sets out a more detailed definition of an STL, and relevant extracts of this legislation are reproduced for information at Appendix 1.

Under Section 26B of the Town and Country Planning (Scotland) Act 1997 (as amended), Councils can choose to designate STL control areas. STL control areas allow authorities to consider STL proposals within specific geographically defined areas, to avoid concentrations of STLs and resulting detrimental impacts on amenity. An STL control area requires planning permission to be sought for any STLs within that area.

Outwith STL control areas, planning case law has confirmed that whether the use of a dwelling (houses or flats) for short-term letting amounts to a material change of use (and therefore constitutes 'development' that would require planning permission) is a question of fact and degree depending on the individual circumstances of the accommodation and its context.

No STL control areas have been designated to date by Aberdeen City Council. It is therefore for the Council to determine whether planning permission is required for any proposals to use an existing property as an STL based on the individual circumstances.

Where an existing building is not already in use as residential accommodation or tourist accommodation, planning permission will be required to change its use to an STL. New buildings for STL accommodation will also require planning permission.

Where an existing building is already in use as residential accommodation or tourist accommodation, planning permission may or may not be required to use it as an STL. In such cases the Council will consider on a case-by-case basis whether proposals would represent a 'material change of use' that would constitute development and therefore require planning permission. Key considerations will be the likely impacts on immediate neighbours, the wider local amenity and infrastructure of the proposed use in the proposed location. The likely extent of disturbance and impact on the sense of security of immediate neighbours from the use of the property as an STL by transient persons will also be a key consideration.

Relevant considerations that will generally assist the Council in determining whether an STL requires planning permission include (but are not limited to):

- Whether the property is to be used as an STL on a full-time or part-time basis;
- The number of people likely to be occupying the STL at any one time and the capacity of the property;
- The character of the property, whether a dwellinghouse or flat, including the number of bedrooms;
- Guest access to communal areas such as stairwells and gardens;
- Frequency and times of arrivals and departures for both guests and for cleaning / maintenance;
- The potential for noisy or otherwise antisocial activities; and,
- Potential impact on public services such as on-street parking and waste collection and whether the proposal is likely to result in undue pressure on those services.

Although to be assessed on a case-by-case basis, it is considered that in most circumstances the use of an existing house (not a flat) as an STL used on a single household basis is unlikely to represent a material change of use and is therefore unlikely to require planning permission. This will be subject to a general requirement that in all cases the proposed maximum occupancy level will appropriately reflect the size of the house and the context of the surrounding area.

Similarly, planning permission will not be required for letting rooms in a house (not a flat) where the letting is restricted to one bedroom in the house and it has fewer than four bedrooms in total, or where the letting is restricted to one or two bedrooms in the house and it has four or more bedrooms in total. The letting in these circumstances would be considered ancillary to the principal use as a dwellinghouse.

Planning permission is also not required for home sharing (apart from cases which would involve the creation of a new planning unit – e.g. an STL in an outbuilding).

However, the use of a flat in a traditional tenement or more modern block as an STL is more likely to represent a material change of use. This is due to the potential impact on neighbours and their residential amenity being generally greater through the introduction of an STL use into a tenement building or higher density accommodation due to the characteristics of shared access, parking and waste facilities, and the proximity of neighbouring flats and shared facilities. Flats are defined as Sui Generis (outwith a specific use class) within the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended). This is a different use category from a house, reflecting their different nature. The number of properties within the overall building will be taken into account when determining whether the use of a flat as an STL would represent a material change of use.

In cases where planning permission is required, this should be sought before applying for an STL licence through the Council's separate STL licensing process. Early engagement with the Council's Development Management team is therefore strongly recommended in order to determine whether planning permission will be required for any prospective STL developments. Details of the proposed STL can be emailed to [pi@aberdeencity.gov.uk](mailto:pi@aberdeencity.gov.uk) and the Development Management team will respond, by email, to confirm whether planning permission is required.

An appraisal of whether an application for planning permission for an STL is likely to be supported, and what information would be required to support a planning application, can also be obtained from the Development Management team by using the Council's [pre-application advice](#) service.

## **2.2 Assessment of Planning Applications**

All planning applications for STLs will be treated on their own merits and will be assessed in line with relevant Development Plan policies and any other material considerations. A list of the main policies that are likely to be relevant to STL proposals is included in section 1.1. However, it should be noted that this list is not intended to be exhaustive and other policies may apply depending on the specific circumstances of individual developments.

In order to assess the likely impacts on amenity and character of the local area, and to ensure that these will be acceptable in accordance with relevant Development Plan policies, all planning applications for STLs will need to be accompanied by suitable supporting information covering the matters listed below. This information should be set out in an STL Planning Checklist. The matters that will be considered include:

- Whether the property is the only or principal home of the applicant;
- If the property is a flat, what floor of the building it is located on;

- The maximum number of occupants / guests that will use the STL at any one time;
- Whether the property is to be used as an STL on a full-time or part-time basis;
- Parking arrangements;
- Anticipated turnover of guests / length and frequency of stays;
- Arrangements for the storage and collection of waste from the property. It should be noted that STLs are classified as a commercial / business use. Applicants will therefore need to enter into a contract with the Council's Business Waste and Recycling team or another licensed waste contractor operating within the City to make appropriate arrangements for waste collection and disposal. A Waste Transfer Notice (WTN) must be obtained by STL operators. WTNs are issued by commercial waste contractors. Business waste should never be put into public or domestic bins (without a supporting WTN). Further information can be found on the Council's webpages on '[Dealing with your business waste](#)';
- How many other properties the STL shares an access and / or communal areas with;
- Details of any communal amenities and / or external amenity space that the property has access to; and,
- Character of the surrounding area, including existing uses.

A template STL Planning Checklist is available online (see link in Further Reading section below) and this should be used to ensure that the necessary supporting information is submitted with any planning application for an STL.

Where a proposal relates to the use of a flat as an STL, the Council will have particular regard to the presence of any existing STLs within the building and their total occupancy levels. This is because the presence of multiple STLs within a tenement or block of flats is likely to have a greater effect on the amenity of other residents through cumulative impacts. When assessing cumulative impacts for proposals relating to the use of a flat as an STL, account will also be taken of any existing Houses in Multiple Occupation (HMOs) within the building and their total occupancy levels. If it is considered that the introduction of a further STL into a building which contains an existing STL/HMO or STLs/HMOs would result in unacceptable cumulative impacts on the amenity of other residents, planning permission will be refused.

### **2.3 Use of Conditions to Limit the Duration of Planning Permissions for STLs**

Policy 30 of National Planning Framework 4 (NPF4) states among other things that proposals to change the use of existing buildings to STLs will not be supported where they would result in *“the loss of residential accommodation where such loss is not outweighed by demonstrable local economic benefits”*.

Given that STLs are generally expected to be used by tourists and / or business travellers, it is envisaged that businesses in the local tourism and hospitality sectors may experience some economic benefits as STL occupants are likely to use the services of these sectors. This is supported in general terms by the Scottish Government publication "[Research into the Impact of Short-Term Lets on Communities Across Scotland](#)" (October, 2019). However, there is currently limited evidence on the local economic benefits of STLs in Aberdeen and this makes it difficult to undertake a detailed assessment of STL proposals against NPF4 policy 30. More such evidence may emerge over time.

Although the most recent Housing Need and Demand Assessment (HNDA) has demonstrated a need for new open market housing in Aberdeen, and that there is also a significant need for more affordable housing, there is not currently understood to be any significant additional pressure placed on local housing need by the conversion of existing residential accommodation to STLs in the City. In this respect, the situation in Aberdeen is different from other areas of Scotland where the number of STLs has placed significant pressure on the availability and affordability of housing (for example in Edinburgh and parts of the Highlands and Islands). At present, the loss of residential accommodation resulting from changes of use to STLs is therefore considered unlikely to have any significant detrimental impact on local housing need within Aberdeen.

Nevertheless, it is recognised that housing need and demand can be subject to significant change over time, and HNDAs are updated regularly (normally every five years) to ensure that conditions and changes in the local housing market are appropriately identified and understood.

The grant of planning permission for existing residential properties to be used as STLs on a permanent basis would potentially result in the permanent loss of residential accommodation which would otherwise be available to long-term residents of Aberdeen. Although STLs are not currently understood to be placing significant pressure on local housing need in Aberdeen, such permanent loss of residential accommodation is unlikely to accord with policy 30 of NPF4, particularly since data on the local economic benefits of STLs in Aberdeen is currently limited. As such, planning permissions to change the use of existing residential accommodation to STLs will generally only be granted for a time-limited period. This will normally be for a period of five years and this will be controlled through the imposition of a condition on the planning permission.

The use of conditions to control the duration of planning permissions for individual STLs will help to ensure that:

- Existing residential properties can automatically return to long-term residential use upon expiry of the STL permission (unless a new permission is granted to extend the STL use in the meantime);
- Local housing need, demand and supply can be kept under review and any significant changes in circumstances can be considered if a new planning permission is sought to extend the STL use; and,
- Any new evidence on the local economic benefits of STLs can be taken into account in accordance with NPF4 policy 30 if a new planning permission is sought to extend the STL use.

## **2.4 Certificates of Lawfulness of Use or Development**

A Certificate of Lawfulness of Use or Development (CLUD) is a mechanism whereby a person can apply to a planning authority for confirmation as to whether planning permission for a proposed or an existing use of a property is required or not. Anybody can seek a CLUD if they wish to ascertain whether an existing use such as an STL is lawful, either on the basis that it does not represent a material change of use or that it has been in existence for a continuous period of ten years.

## **2.5 Guesthouses and B&Bs**

Relevant provisions of planning legislation regarding Guesthouses and B&Bs apply irrespective of this document.

Class 7 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended) permits use as a hotel, boarding house, guest house, or hostel, providing it is not a licensed premises.

Class 9 (houses) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended) permits use as a bed and breakfast establishment or guesthouse, where at any one time not more than two bedrooms are used for that purpose, or not more than one bedroom in the case of premises having fewer than four bedrooms as permitted development.

### 3. Further Reading

Short-term Lets Planning Checklist:

<https://www.aberdeencity.gov.uk/sites/default/files/2023-08/Short%20Term%20Let%20Accommodation%20Planning%20Supporting%20Information%20Checklist%20web.pdf>

Short-term Lets in Scotland – Planning Guidance for Hosts and Operators:

<https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2021/06/short-term-lets-scotland-planning-guidance-hosts-operators/documents/short-term-lets-scotland-planning-guidance-hosts-operators/short-term-lets-scotland-planning-guidance-hosts-operators/govscot%3Adocument/short-term-lets-scotland-planning-guidance-hosts-operators.pdf>

## **Appendix 1**

### **Extracts from Town and Country Planning (Scotland) Act 1997 (As Amended) – Section 26B (Material Change of Use: Short-term Lets)**

#### **26B Material change of use: short-term lets**

- (1) A planning authority may designate all or part of its area as a short-term let control area for the purposes of this section.
- (2) In a short-term let control area, the use of a dwellinghouse for the purpose of providing short-term lets is deemed to involve a material change of use of the dwellinghouse.
- (3) For the purposes of this section, the following tenancies do not constitute a short-term let—
  - (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.

### **Extracts from Town and Country Planning (Short-term Let Control Areas) (Scotland) Regulations 2021 (As Amended) – Regulation 2 (Definition of a Short-term Let) and Schedule (Excluded Accommodation)**

#### **Short-term let**

- 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 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.
- (2) For the purposes of this regulation, a person (“A”) is an immediate family member of another person (“B”) if A is—
- (a) in a qualifying relationship with B,
  - (b) a qualifying relative of B,
  - (c) a qualifying relative of a person who is in a qualifying relationship with B, or
  - (d) in a qualifying relationship with a qualifying relative of B.
- (3) For the purposes of paragraph (2)—
- (a) two people are in a qualifying relationship with one another if they are—
    - (i) married to each other,
    - (ii) in a civil partnership with each other, or
    - (iii) living together as though they were married,
  - (b) “a qualifying relative” means a parent, grandparent, child, grandchild or sibling,
  - (c) two people are to be regarded as siblings if they have at least one parent in common,
  - (d) a person’s stepchild is to be regarded as the person’s child,
  - (e) a person (“C”) is to be regarded as the child of another person (“D”), if C is being or has been treated by D as D’s child.

## **SCHEDULE**

### Excluded accommodation

1. Excluded accommodation means a dwellinghouse which is, or is part of—
- (e) residential accommodation where personal care is provided to residents,
  - (f) a hospital or nursing home,
  - (g) a residential school, college or training centre,
  - (h) secure residential accommodation (including a prison, young offenders institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation or use as military barracks),
  - (i) a refuge,
  - (j) student accommodation,
  - (l) premises in respect of which a premises licence within the meaning of section 17 of the Licensing (Scotland) Act 2005 has effect and where the provision of accommodation is an activity listed in the operating plan as defined in section 20(4) of that Act

2. In this schedule—

"personal care" has the same meaning as in paragraph 20 of schedule 12 of the Public Services Reform (Scotland) Act 2010,

"refuge" means premises used wholly or mainly for providing accommodation to persons who have been subject to any incident or pattern of incidents, of—

- (a) controlling, coercive or threatening behaviour,
- (b) physical violence,
- (c) abuse of any other description (whether physical or mental in nature), or
- (d) threats of any such violence or abuse,

"student accommodation" means residential accommodation which has been built or converted predominantly for the purpose of being provided to students