



Short Term Lets – Briefing Paper No. 1

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Published April 2017

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Foreword

I first raised the issue of short term lets in the Scottish Parliament in September 2016 and again in December. Following the subsequent debate and press attention from a Parliamentary Question in January 2017, many constituents, including landlords, neighbours and other residents, have contacted me to raise their concerns about the unregulated growth of short term lets. It is clear to me that there are questions that need to be addressed.



In the last decade, there has been a significant growth of short term lets. A quick search online reveals over 3 million properties for rent in 65,000 cities in 191 countries throughout the world¹. However, this is not just an urban issue. The prevalence of holiday homes in rural Scotland has been the subject of debate and controversy since the 1970s.

The purpose of this paper is to explore the nature and scale of the growth of the short term lets market and to identify possible reform. Legislation has not kept up-to-date with the growth of this sector and appropriate adjustments to planning and licencing law are clearly needed.

The Scottish Green Party proposes the introduction of new Planning Use Classes that will ensure that short term lets are suitably regulated for the benefit of tenants, landlords, neighbouring residents and the wider community.

If you wish to contribute your thoughts to this work or find out more information, please contact my office – details are on page 2 of this paper.

Andy Wightman MSP

Short term lets in numbers

Recent analysis of online listings by independent researchers has found that for Edinburgh²:

- There are over **6200** properties available for short term letting in Edinburgh – **55%** of these are entire homes where the owner isn't present.
- Across Edinburgh, around **1500** entire flats or homes (where the owner isn't present) are rented out for an average 179 nights per year.
- More than **a third** of entire flats or homes advertised are owned by professional landlords who own and manage multiple properties across the city.
- **76%** of all properties advertised online in the Old Town area (396 listings) are entire flats or homes, which are let out for more than 60 days per year.

Key Issues

There are a number of complex issues associated with the rise of short term lets.

Residents living next to short term lets report **anti-social behaviour** taking place within residences and shared stairwells. Instances reported include littering, fighting, and late night noise.

Overall, people report a '**loss of community**' as properties are bought by speculative buyers, who in turn, replace permanent tenants with a high turnover of temporary residents.

Linked to that, there is the wider problem of **displacing available housing** for people wishing to live in neighbourhoods that are experiencing growth in short term lets. In turn, this has a knock on effect on local services and facilities as the resident population is replaced by temporary visitors. In many cases, **short term let landlords do not pay non-domestic business rates** as their properties are categorised as residential properties. This means that local government is missing out on essential funding whilst rent-seeking absentee landlords are generating profits.

There are concerns over **the security of premises**, particularly with keys to properties being exchanged to unknown persons for irregular periods of time.

Case Study – City of Edinburgh

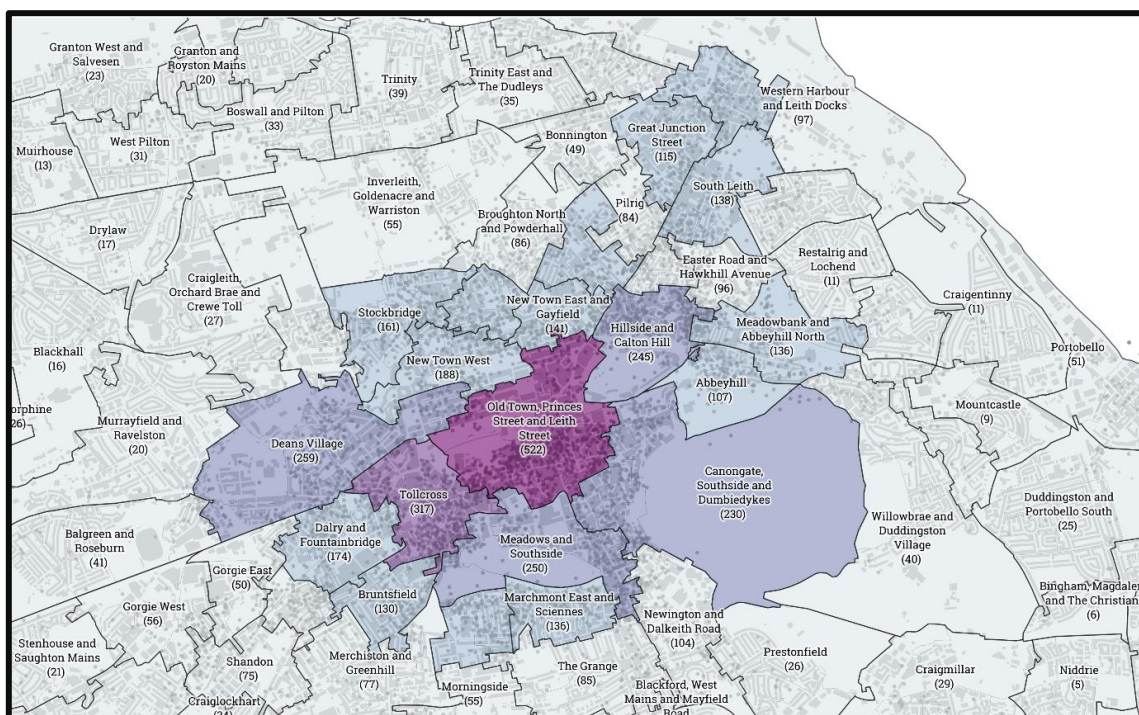


Figure 1: Map of Edinburgh highlighting the concentration of short term lets within the city centre³

To understand the scale of short term lets in Edinburgh, we commissioned SPICe – the Scottish Parliament’s independent research service – to forecast (at the current rate) how long it would take for half the number of properties in the city to become registered as short term lets.

Considering the central EH1 postcode area (the red coloured zone in Figure 2), as an example, it was found that there are 8,845 dwellings within this vicinity⁴.



Figure 2: EH1 postcode area

Drawing on recently published data, Figure 3 illustrates the significant growth of short term lets being registered on a popular online platform for the EH1 area⁵.

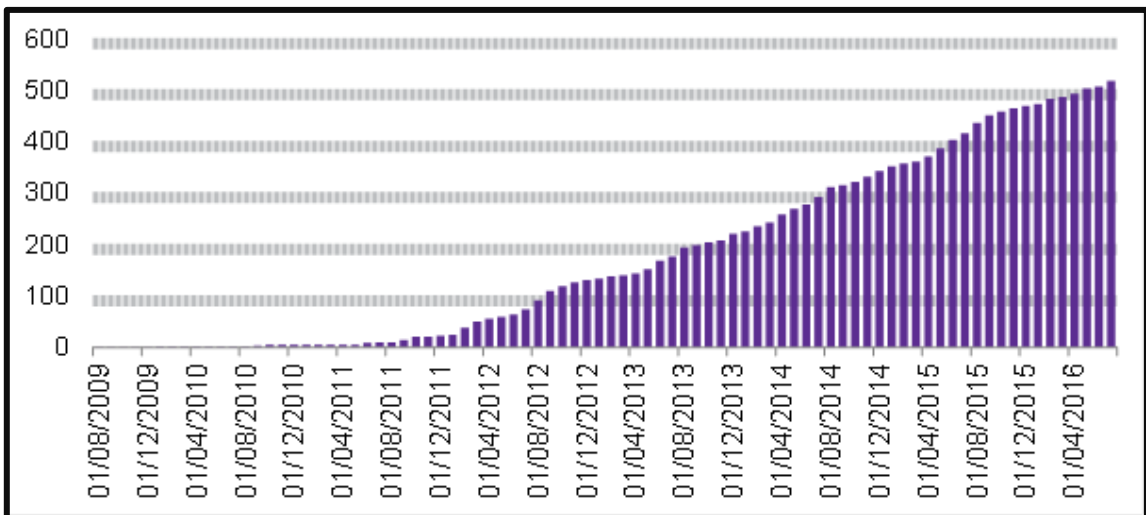


Figure 3: Number of short term lets registered in EH1 postcode area (August 2009 – April 2016)

Based on these registration figures, it is forecast that, at the current rate of 9.23 assumed registrations per month (rounded to 111 per year), over 50% of the properties in EH1 could be short term lets by 2051 (see Figure 4). The projection includes for fewer (60) and more registrations (120 and 180) per year to illustrate a timeline of four different scenarios.

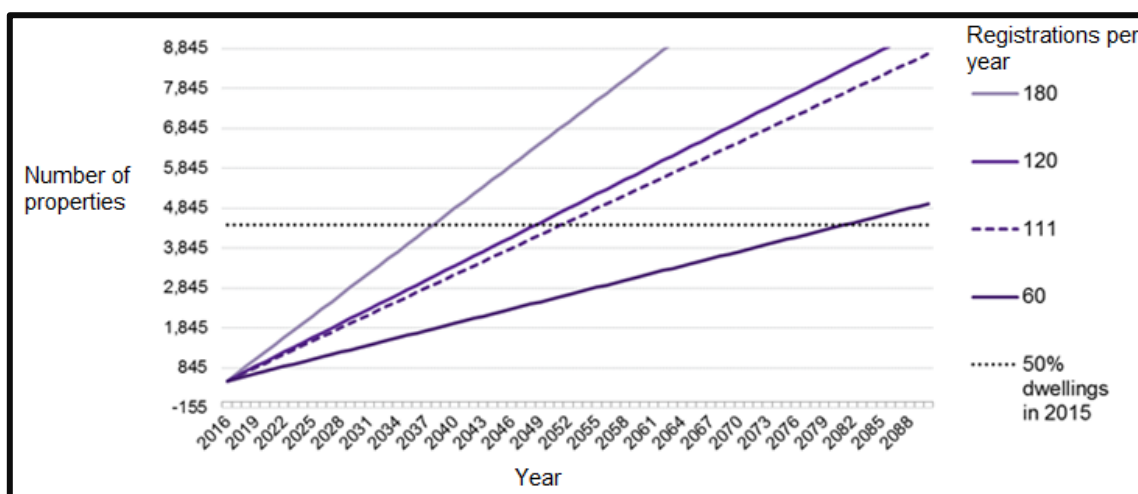


Figure 4: Projected growth in the number of short term lets based on different assumed growth

There are, of course, some caveats associated with this forecasting. For example, it is likely that the number of new hosts will not rise as consistently each year due to market saturation. Likewise, we know that some people may register their property online but decide against pursuing this as a commercial project in the long term. What is certain, however, is that the considerable expansion of short term lets, to date, has had a direct impact on the city's residents and authorities. Consequently, interventions are now required to control the unregulated development of short term lets.

Regulation and licencing

In Edinburgh, there is a distinction between a 'short term let' and a 'party flat'. According to the City of Edinburgh Council, short term lets are "usually rented for up to 5 days by a small group or family for the purpose of a short break or holiday" whereas 'party flats' are "usually rented by a number of unrelated persons for the purpose of a stag or hen night or where they are attending a sport or entertainment event"⁶.

There is current legislation in place to address anti-social behaviour taking place within 'party flats' and this is covered in the Antisocial Behaviour (Scotland) Act 2004 Part 7 as amended by The Antisocial Behaviour Notices (Houses Used for Holiday Purposes) (Scotland) Order 2011⁷. This Order enables local authorities to serve an antisocial behaviour notice on a landlord of a holiday let if there are two instances of antisocial

behaviour taking place that is connected to the property, or if further behaviour is anticipated in the future. However, it is difficult to enforce this legislation.

Guidance from the City of Edinburgh Council suggests that changing the use of a residential property to “short term commercial visitor accommodation may require planning permission”. However, it is not clear what this entails. Correspondence with Planning Officials at the Council point to short term lets as “sui generis” and any material change of use depends on the specific facts and circumstances of each case⁸.

Despite growing complaints under the 2011 Order about short term lets, between August 2015 and August 2016, the City of Edinburgh Council recorded only 14 closed cases of residential properties in violation of a change of use as a short term let. Totalling over 9000 days of Council time, it took an average of 646 days to remedy the situation for each property⁹.

Although Council Planning Officials may be aware of properties being advertised online as short term lets, under current circumstances, cases can be closed if “no material change of use” is recorded¹⁰. Therefore, evidence to date suggests that Planning Use Class Orders must be modified to better reflect the changes in use that, under current planning rules, may not be considered material.

Land Tenure

Cases investigated on behalf of constituents reveal that the Deed of Conditions contained in the title often contains a restriction such that the property shall be used “in all time coming as a private dwelling house for the use of one family only and for no other purpose”. Recent cases in the Sheriff Court and Lands Tribunal have provided some guidance on how effectively such conditions can be enforced, yet questions remain over the enforceability of such conditions¹¹.

Conclusion

Although this paper has specifically focussed on the City of Edinburgh, short term lets have quickly become a major concern for many people throughout Scotland – both in urban and rural areas. The scale of the problem suggests that this issue will not be resolved without appropriate legislative intervention from the Scottish Parliament to allow local authorities to conduct effective regulation.

Based on preliminary investigations, it is our view that the best way to regulate short term lets is to introduce new Planning Use Class Orders that reflect the extent of these tenancies.

Moving forward with this work, it is anticipated that further evidence needs to be collected, which will document the impact of short term lets in local authority areas throughout Scotland. Initial discussions indicate that there is a need for legislative intervention and we are encouraged by broad agreement from individuals throughout the housing sector and representatives from across the political spectrum.

References

- ¹ Information provided by one online short term let provider, <http://bit.ly/2ml5dCa>, accessed April 2017.
- ² Information adapted from data collected in July 2016 from <http://bit.ly/2jKjgQ4>, accessed April 2017.
- ³ Image kindly provided by Dr Alasdair Rae (University of Sheffield) using data captured in July 2016 from <http://bit.ly/2jKjgQ4>.
- ⁴ Information derived from the Scottish Government's 2011 Data Zones, <http://bit.ly/2luWGxi>, accessed April 2017.
- ⁵ Information adapted from data collected in July 2016 from <http://bit.ly/2jKjgQ4>, accessed April 2017.
- ⁶ City of Edinburgh Council, *Short term lets and party flats*, <http://bit.ly/2ktqXhU>, accessed April 2017.
- ⁷ Scottish Statutory Instruments, 2011 No. 201, Housing: The Antisocial Behaviour Notices (Houses Used for Holiday Purposes) (Scotland) Order 2011, <http://bit.ly/2kYUZdY>, accessed April 2017.
- ⁸ See for example the Eyre Place case: Scottish Government, *Enforcement Notice Appeal*, <http://bit.ly/2jTTHMl>, accessed April 2017.
- ⁹ City of Edinburgh Council, *Planning Committee (6 Oct 2016): Short Stay Commercial Leisure Apartments – Monitoring Report*, <http://bit.ly/2knAPcv>, accessed April 2017.
- ¹⁰ City of Edinburgh Council, *Planning Committee (2 March 2017): Short Stay Commercial Visitor Accommodation*, <http://bit.ly/2ofSjHr>, accessed April 2017.
- ¹¹ See for example: *Whitelaw v Acheson*, <http://bit.ly/2lnhTuu>, accessed April 2017. Title Conditions (Scotland) Act 2003, section 8, <http://bit.ly/2mkUlin>, accessed April 2017.