

Planning Committee

10am Thursday, 6 August 2014

Short Stay Commercial Leisure Apartments – Monitoring Report

Item number	7.2
Report number	Routine
Executive/routine	
Wards	All

Executive summary

In 2013, the Planning Committee agreed to make changes to its non-statutory 'Guidance for Businesses', in order to make specific reference to the issue of short stay commercial leisure apartments – so called 'party flats'. This report provides an update on the Council's current position, following the last report submitted in August 2014. It is recommended that the next report is made in one year's time.

Links

Coalition pledges	P28
Council outcomes	CO8 CO16 CO19
Single Outcome Agreement	SO1 SO4

Short Stay Commercial Leisure Apartments – Six Monthly Update

Recommendations

- 1.1 It is recommended that the Committee notes the current position in respect of action by the planning enforcement service relating to short stay commercial leisure lets and that a further report on progress will be made in a year's time, and refers the report to Health, Social Care and Housing Committee for information.

Background

- 2.1 Since the Guidance for Businesses was approved in December 2012, the Planning Committee has considered whether short stay commercial leisure apartments or 'party flats' can constitute a material change of use in planning terms. The Planning Committee considered that in certain cases they could. Accordingly, the published version of the non-statutory Guidance for Businesses was amended to incorporate the relevant criteria for assessing whether a residential property had undergone a change of use to a short stay commercial leisure apartment, (SSCLA).
- 2.2 At its meeting on 7 August 2014, the Planning Committee considered a progress report and noted the current position in respect of action by the planning enforcement service relating to short stay commercial leisure lets. It also noted that a further review will be carried out and reported on in six months time. This report fulfils that remit. The reason a report was not submitted sooner is that there had been relatively little activity over that six month period to report on.

Main report

- 3.1 Since the previous update, the planning authority has registered four new enquiries into the alleged use of flatted properties as SSCLA.
- 3.2 Two of these enquiries relate to the two flatted properties on Grove Street, (16/4 & 31/2), (refs 14/00692/ECOU & 14/00693/ECOU), which had previously been served with a management control order by Community Safety, and were managed directly by the Council between October 2013 and October 2014. These properties were returned to their owner in October 2014. Subsequent

concerns were raised that the properties were being used as either HMO, or possibly SSCLA.

- 3.3 Planning officers undertook site inspections of the properties in response to these enquiries. However, no one was in residence at the time of the inspections. In addition, Community Safety officers conducted several site inspections to assess the use of the properties. However, they were unable to find any evidence of the properties being used as HMO or SSCLA. The current investigations into these properties are still ongoing.
- 3.4 One enquiry regarding the use of the premises at 3F1 22 Learmonth Terrace was received in April 2015, (ref 15/00199/ECO). An enforcement notice was served on the premises on 5 June 2015, requiring the cessation of the use of the property as an SSCLA. The date the notice took effect was 8 July 2015. It is due for compliance two months after this date. The owner had until 8 July to submit an appeal against the notice to the Directorate for Planning and Environmental Appeals. No appeal has been received.
- 3.5 One enquiry regarding the use of the premises at 83 Dundas Street was received in June 2015. A site inspection of this property to assess the alleged use is being arranged. However, Community Safety is also in the process of investigating these premises. Initial discussions have already taken place between representatives of both services, and planning officers will continue to work with Community Safety throughout the course of the investigation into this premises.
- 3.6 To date, the planning service has not received an appeal against any of the enforcement notices served. Consequently, there is still no external measure of the robustness of the policy approach being taken. Until appeal decisions are available, it is not possible to reach any definitive conclusion on whether the non- statutory guidance has resulted in an improvement to the situation in regards to such uses.
- 3.7 Council officials met with the Procurator Fiscal in November 2014 to discuss the evidence requirements and the level of fine that can be applied if there is a successful prosecution.
- 3.8 The Procurator Fiscal advised that evidence can be taken from anyone who has witnessed a crime being committed. In the case of a failure to comply with a planning enforcement notice, neighbours who are experiencing noise and disturbance could provide useful evidence. However, they would be required to give evidence in court. The Procurator Fiscal would also expect Planning officers to appear as lead witnesses and to be able to provide comprehensive evidence of criminal activity.

- 3.9 In terms of the level of fine that could be applied, the Procurator Fiscal advised that this was limited by the relevant legislation and that the Sheriff would determine whether or not to apply the maximum (up to £20,000) or a lower level fine based on the circumstances of an individual case.

Measures of success

- 4.1 That the Council's performance in dealing with cases of short stay commercial leisure lets results in a decline in the particular problems associated with such uses, in a decline in the number of complaints about such activity, and in successful outcomes for the Council in any appeal or court proceedings.

Financial impact

- 5.1 There are no financial implications arising from this report.

Risk, policy, compliance and governance impact

- 6.1 There is no impact on risk, policy, compliance and governance impact arising from this report.

Equalities impact

- 7.1 There is no relationship between the matters described in this report and the public sector general equality duty. There is no direct equalities impact arising from this report.

Sustainability impact

- 8.1 The impacts of this report in relation to the three elements of the Climate Change (Scotland) Act 2009 Public Bodies Duties have been considered. Relevant Council sustainable development policies have been taken into account. This review of the operation of revised non statutory guidance will have no adverse impacts on carbon emissions, the city's resilience to climate change impacts, achieving a sustainable Edinburgh in respect of social justice, economic wellbeing or good environmental stewardship.

Consultation and engagement

- 9.1 Consultation and community engagement have not been carried out in respect of this review of the operation within the guidelines. However, there is regular contact and communication with community groups and other interested parties through the work of the task group.

Background reading/external references

Annual Review of Guidance, report to Planning Committee, 28 February 2013

Minutes of Planning Committee, 28 February 2013, item 3

Minutes of Planning Committee, 5 December 2013. Item 5.1

Minutes of Development Management Sub Committee, 14 May 2014, Item 4.2

Minutes of Planning Committee, 7 August 2014

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Links

Coalition pledges	P28 Further strengthen our links with the business community by developing and implementing strategies to promote and protect the economic well being of the city
Council outcomes	CO8 Edinburgh's economy creates and sustains job opportunities CO16 Well-housed – People live in a good quality home that is affordable and meets their needs in a well managed neighbourhood CO19 Attractive Places and Well Maintained – Edinburgh remains an attractive city through the development of high quality buildings and places and the delivery of high standards and maintenance of infrastructure and public realm
Single Outcome	SO1 Edinburgh's economy delivers increased investment, jobs,

Agreement

and opportunities for all
SO4 Edinburgh's communities are safer and have improved
physical and social fabric.

Appendices

None

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