

Planning Committee

10.00am, Thursday 5 December 2013

Short Stay Commercial Leisure Apartments – Review of Non-Statutory Guidance

Item number	5.1
Report number	
Wards	All

Links

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

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Executive summary

Short Stay Commercial Leisure Apartments – Review of Non-Statutory Guidance

Summary

The Planning Committee agreed to make changes to its non-statutory “Guidance for Businesses” in February 2013 in order to make specific reference to the issue of short stay commercial leisure apartments – so called “party flats”. In agreeing the changes, the Committee asked for a report back after 6 months. This report details events since that time and has been slightly delayed to allow for feedback to be included on the outcome of the service of the first two planning enforcement notices.

Recommendations

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 review will be carried out and reported on in six months time.

Measures of success

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

This report has no financial implications.

Equalities impact

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

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 or in respect of social justice, economic wellbeing or good environmental stewardship.

Consultation and engagement

Consultation and community engagement have not been carried out in respect of this review of the operation of 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](#)

Short Stay Commercial Leisure Apartments – Review of Non-Statutory Guidance

1. Background

- 1.1 At its meeting on 28 February 2013, the Planning Committee received a deputation which made a number of points in regard to the use of residential flats for short stay commercial leisure use. The Committee had regard to those comments in considering the report on the Annual Review of Guidance which contained proposals for a change to the Guidance for Businesses in regard to such uses.
- 1.2 Since the Guidance for Businesses was approved in December 2012, the Council had considered whether short stay commercial leisure apartments, or 'party flats' can constitute a material change of use in planning terms. The Council considered that in certain cases they could. Accordingly, the following text was proposed to be added to the relevant section of the published version of the non-statutory Guidance for Businesses:
- The change of use from a residential property to short stay commercial leisure apartments may require planning permission. In deciding whether this is the case, regard will be had to:*
- *The character of the new use and of the wider area;*
 - *The size of the property;*
 - *The pattern of activity associated with the use including numbers of occupants, the period of use, issues of noise, disturbance and parking demand; and*
 - *The nature and character of any services provided,*
- and in the case of short stay commercial leisure apartments, the Council is unlikely to grant planning permission in respect of flatted properties where the potential adverse impact on residential amenity is greatest.*
- 1.3 In reaching a decision, the Committee resolved amongst other things that the wording of the text above should be amended to read "will not normally" instead of the proposed "is unlikely to". It also resolved that the amended guidance be reviewed in 6 months time.

2. Main report

- 2.1 The wording of the guidance was altered as requested by the Committee and has now been in effect since that time. The Planning service has also continued to make a contribution to the work of the special task group which had been set up the previous year to provide a co-ordinated approach to this problem and which involved officers from a range of service areas, including those who dealt with anti-social behaviour issues. Those officers have been pursuing the use of two flats in Grove Street under anti-social behaviour legislation which has resulted in the granting of the first Management Control Order in Scotland for both properties, in parallel with the action being taken by the Planning service. A Management Control Order gives responsibility for the management of the properties to the Council and is for a period of 12 months. There is regular liaison between the service areas and cases where a Planning input is required are referred to this service for action, by the task group manager.
- 2.2 Since the matter was before the Committee last, planning enforcement notices were served on 5 August 2013 in respect of the two flats in Grove Street referred to above and which had been causing persistent problems for some time. The owner however did not appeal those notices and they therefore took effect on 6 September 2013. The two month period for compliance ran until 5 November 2013. From information reported, the owner has ceased the use of the properties as short term commercial lets within the period specified and has therefore complied with the notices. This is likely to be due to the restrictions placed on the owner as part of the Anti Social Behaviour Notices and the Interim Interdict that the Council were successful in gaining.
- 2.3 In addition, the owner has submitted an application at the beginning of October for a certificate of lawfulness for one of the flats in Grove Street, seeking a certificate in respect of guest house/bed & breakfast type usage. The outcome of this application will have a significant impact on what enforcement action might be taken in respect of those premises.
- 2.4 In addition to the two flats in Grove Street, the Planning service is investigating the use of multiple units in Brandfield Street and at Western Harbour. Other properties under investigation are located at Featherhall Avenue, Holyrood Road, Lothian Road and Old Tolbooth Wynd. Consideration of the situation at Brandfield Street is at an advanced stage, with investigations having been completed. Otherwise, the remaining properties are still the subject of ongoing investigation, the collection of background information and evidence gathering to determine what action might be appropriate.

- 2.5 The fact that neither of the enforcement notices served so far has been appealed means that the Committee has no external assessment of the robustness of the policy approach being taken. It is not known why the property owner resolved not to appeal the notices, but to comply with them, although it should be noted that restrictions were imposed on the owner by the interim interdict which the Council obtained in the court. This limited the usage of the properties to 10 people in No 31 and 8 people in No 16 and specified that there were to be no stag or hen parties in these properties. Until more notices are served and appeal decisions are available, it is not possible at the present time to reach any definitive conclusions on whether or not the non-statutory guidance has made any difference to the situation with such uses. A further review will be carried out in six months time to assess the situation at that time.

3. Recommendations

- 3.1 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 review will be carried out and reported on in six months time.

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Director of Services for Communities

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 CO 19 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 Agreement	SO1 Edinburgh's economy delivers increased investment, jobs, and opportunities for all. SO4 Edinburgh's communities are safer and have improved physical and social fabric.
Appendices	None