

## West End Community Council Minute

**2nd of July 2019** at the Walpole Hall, 27 Chester Street, Edinburgh, EH3 7EN

Present: Gordon Wyllie (in the Chair), Ian Robertson (Vice Chair), David Duncan (Secretary), Alan Weddell (Treasurer), Isabel Thom (Planning) and Martha Baur (members of the community council) together with West End residents and over 80 members of the public including those on the accompanying schedule.

Discussion	Action
<p><b>1. Apologies and welcome</b></p> <p>Apologies were received from or on behalf of Deidre Brock MP, Ruth Davidson MSP, Cllr. Alasdair Rankin, Cllr. Karen Doran, Cllr. Gavin Barrie, Cllr. Hal Osler, Cllr. Iain Whyte, Cllr. Max Mitchell, Susan Purnell (Police Scotland), Cameron Buchanan, Alex Milne, Colin Johnston, Gordon Renton and the Very Rev'd John Conway. Mr Alasdair Rankin, the elected member of Edinburgh City Council who was due to attend the meeting by rotation, had expressed particular disappointment at being unable to do so.</p> <p>The principal business of the meeting was to discuss the impact of short-term lets and a warm welcome was extended to the large number of people who had attended in order to participate. The usual routine would be observed and when the topic of short-term lets came to be discussed those who wished to speak would be asked to allow other speakers to finish their remarks without interruption.</p> <p>It was hoped that as many people as possible would be interested in attending the next regular meeting of the Community Council and receiving the Minute of this evening's transactions, in which connection those wishing to be involved were asked to submit their contact details to the Secretary.</p>	
<p><b>2. Minute of meeting held on the 4th of June 2019</b></p> <p>The Minute from the last meeting was approved.</p>	
<p><b>3. Police Report</b></p> <p>As no members of the Police Force were in attendance, no Police report was delivered. (After the meeting the Secretary received an email intimating that although lack of resources had again prevented attendance, it was hoped that an officer would be present at the meeting on 6 August)</p>	
<p><b>4. South East Locality and Neighbourhood Partnership</b></p> <p>There was nothing to report.</p>	
<p><b>5. City Councillors' report</b></p> <p>Several members of the public noted with disapproval that no City Councillors were present at the meeting and asked that this be Minuted.</p>	
<p><b>6. Short-term lets</b></p> <p>Although a number of prominent letting agencies and those involved in the business of</p>	

short-term letting had received special invitations to attend, the sole organisation to send a representative was the Association of Self Caterers whose Melanie Angus is also a local resident and who was asked to commence the discussion.

Mrs Angus explained the personal circumstances which had caused her to embark upon short-term letting and illustrated how in appropriate circumstances properly managed lets could be welcomed by neighbouring residents of shared and other properties. Expanding upon these comments local resident Mairi Graham said that although in some cases holiday etc lets could cause difficulties not all Landlords were tarred with the same brush and a gentleman named Alex, who identified himself as an American owning some Airbnb properties in the West End referred to an Airbnb website ([www.airbnb.com/neighbours](http://www.airbnb.com/neighbours)) where aggrieved neighbours can complain regarding the behaviour and attitude of Airbnb hosts and visitors. He and Mrs Angus explained the procedures. Once Airbnb receive the comment the relevant host is asked to report on the circumstanced alleged and indicate what they are doing to remedy the situation. If Airbnb are not satisfied, the host's listing can be removed.

Harold Hindle pointed out that it is not always readily possible to identify either the owner / occupiers of the relevant properties and that even property factors can struggle to contact landlords, upon which a lady resident commented that it is equally difficult to identify "what platform" is being employed even when ownership / occupation has been identified. Mrs Lisa Lamont pointed out that if market leaders such as Airbnb were toppled, other similar portals would take over. Echoing those comments Mrs Liz Maclachlan went on to say that the Council should implement an inspection system to ensure that properties let on a short term basis are safe and fit for purpose.

Mr Andrew Noble felt that a resident letting out part of his own residential accommodation was acceptable (a point of view shared by Mr Keith Cox) but commercial development was getting out of hand. Joan from Douglas Crescent said it was important to identify domestic arrangements from commercial enterprises.

Mr Peter Mountford-Smith encouraged those present to respond to the City Council's consultation and hoped that a proper regulatory regime would be introduced. In doing so it would be important to distinguish small and partial lets from properties that were part of a business enterprise. Examples exist from round the world where these issues are being tackled effectively by local authorities and in appropriate cases he would encourage the Edinburgh City Council to use compulsory purchase powers to acquire properties that were inappropriately managed / failed to meet the tests. A list of examples from the local authorities's report is attached as an appendix

Apart from bad behaviour on the part of lessees, difficulties could be caused and adverse reactions provoked by the appearance of multiplicities of "key boxes" at common entrance ways and a feeling, particularly expressed by Mr Andy Duncan, that areas of Edinburgh were being "hollowed out". It was nevertheless important to recognise the right of individual proprietors to take paying guests. Referring to the rights of co-proprietors to unimpeded access to their own dwellings within shared properties Mrs Irene Drummond articulated the concern of many that without permission from co-proprietors access to common entries and communal areas can be afforded to short-term lessees without the approval or consultation of relevant neighbours. Shona Morrison referred to the difficulties which these issues can cause when effecting and renewing buildings insurance.

<p>Mrs Melanie Angus and Mrs Isabel Thom stressed that when people encounter nuisance behaviour on a repetitive basis it was supremely important to keep a detailed diary of these occurrences which could be used when making complaints and laying issues before appropriate authorities such as the Police and the Planning Department. It might also be possible to seek civil remedies such as financial compensation and damages through the court system</p> <p>A number of people had the good fortune to own properties subject to deeds of condition and common management and factoring regimes. In these cases an element of first recourse could be had to the managers but in other cases it might first be necessary to take legal advice, which could be comparatively costly</p> <p>Mr Robin Maclachlan reminded the meeting that in spite of these difficulties a number of those present Edinburgh does need not just a rented property sector but the possibility for new arrivals of obtaining short-term lets. This might particularly be the case when people are moving to Edinburgh to take up new positions at work (and it had been noted at a previous Community Council meeting that approximately 1000 new residents make their homes in Edinburgh every month).</p> <p>Mrs Isabel Thom referred to the planning issues which short-term letting can involve. In instances where the element of short-term letting amounts to a change of use in planning terms, an application needs to be made to the local authority. In residential districts it seems that such permission will ordinarily be refused, and Mrs Thom referred to the City Council's guidance regarding carrying on business activities at home. Such properties are to be distinguished from Houses Multiple Occupation (HMOs) She went on to suggest that in appropriate cases relevant concerns should be raised with the City of Edinburgh Planning Department. Again encouraging people to respond to the City Council's consultation before the opportunity closed on the 19<sup>th</sup> of July Mrs Thom referred to the report to be found on the Council's website at: <a href="http://www.edinburgh.gov.uk/.../id/.../item_72_-_short_term_letting_in_edinburgh">//www.edinburgh.gov.uk/.../id/.../item_72_-_short_term_letting_in_edinburgh</a></p> <p>Mrs Angus referred to the general desirability of a code of conduct backed up by regulation. Concerns were expressed that a code of conduct might be difficult to police and enforce. Architect David referred to legislation presently going through the Scottish Parliament. (<i>Section 11B of the Planning (Scotland) Bill (as amended by Andy Whightman MSP's initiative) aims to control short-term lets by requiring a specific grant of planning permission except where the property remains the main residence of the lessor.</i>) He suggested that the Edinburgh City Centre might be designated a no short-term let zone (<i>echoing the old Veto Poll provisions</i>) which Mrs Irene Drummond strongly supported.</p> <p>It was agreed that the Minute of these proceedings would be transmitted to the City of Edinburgh Council, although the WECC as an organisation would not be responding to the consultation which closes on the 19<sup>th</sup> of July.</p>	
<p><b>7. AOCB</b></p> <p>The balance in the Community Council's favour was £640.72 and the Planning Report had been circulated to the Community Councillors prior to the meeting.</p> <p>Ian Robertson received support from those present regarding the possibility of holding a "café-style event" for a future meeting. Everyone present was invited to attend the next meeting of the Community Council which will be held at 7:30pm prompt at 61 Ashfield House, 61 Melville Street, Edinburgh, EH3 7HL.</p>	
<p><b>8. Date of the next Community Council meeting</b></p>	

6<sup>th</sup> of August

Subsequent dates: 3<sup>rd</sup> of September, 1<sup>st</sup> of October, 5<sup>th</sup> of November and the 3<sup>rd</sup> of December.

**Schedule** - Members of the public in attendance. **Appendix** – Other City’s approach to Short-term lets

**List of attendees of meeting 02/07/2019**

**Name**

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Angela Astor	Fiona Serie
Melanie Angus	Peter Mountford Smith
Jacqueline Anderson	Gene Tidrick
Andrew A Boyd	Kathryn Tidrick
James Brown	Will Toner
Vivienne Brown	Richard and Violet Yule
Suzanna Black	Shanshan Zhang
Peter Black	
George Briggs	
Mrs M. C. Cooper	
Giovanni Cupelli	
Mike Dawson	
Irene Drummond	
Andy Duncan	
Sarah Dilley	
Michael Dinsdale	
Christian Degueldre	
Suzanne Graham	
Mairi Graham	
Sonja Gallhofer	
Harold Hindle	
Ann Hindle	
David Holt	
Alan Hunter	
Pascale King	
Lisa Lamont	
Tom Lawrence	
James McBrinn	
Duncan McLeod	
Shona Morrison	
David Meek	
Maeve McPhillips	
Douglas McGregor	
Marta McGynn	
Ian and Maureen McGregor	
Robin and Liv Maclachlan	
Robert Maclaren	
Andrew Noble	
Patricia Player	
Julia Pepper	
Ruth Ruxton	
Pamela Russell	
Andrew Ross	
Charles Scott	



**Appendix : Other Cities' Approach to Categorising SSCVA**

City	Source	Determining Commercial/Non Commercial
Glasgow	<p>RES 8 - Short-Stay Serviced Apartments</p> <p><a href="#">Supplementary Guidance 10: Meeting Housing Need, page 12, Short Stay Serviced Accommodation</a></p>	<p>Dwelling houses remains in use as a house whether it is the sole or main residence of the occupants or not. This sets a context that a house being used on a short-term basis does not constitute a change of use, irrespective of the frequency of changes in household. Therefore, short-stay use within a house will not be deemed to require planning permission provided that it is occupied by a single household as defined in Class 9.</p> <p>Where a flat is being used principally to provide short-stay accommodation, there may be a material change of use. In determining whether a proposed short-stay use would constitute a change of use, the Council will take account of the nature of services provided, such as cleaning or laundry, the size and context of the property and the frequency and length of short stays.</p>
Amsterdam	<p><a href="http://www.iamsterdam.com/en/local/live/housing/rental-property/shortstay">http://www.iamsterdam.com/en/local/live/housing/rental-property/shortstay</a></p> <p><a href="https://www.dutchnews.nl/news/2018/01/amsterdam-other-eu-cities-urge-brussels-to-take-action-on-airbnb-data/">https://www.dutchnews.nl/news/2018/01/amsterdam-other-eu-cities-urge-brussels-to-take-action-on-airbnb-data/</a></p>	<p>Short stays of less than 7 days are prohibited in residential property. These visits are considered to be appropriate for hotels and bed and breakfasts and would be considered as a commercial use of a residential property. Some home exchange during holidays etc is allowed but it must be clear that the property is not being rented for money on a regular basis for short periods (60 days per year limit). This is changing to 30 days and a maximum of 4 people in 2019. To let a house out for a short stay if between 7 days and 6 months requires a permit and is considered a change of use. The number of permits is restricted to 10% of a district's housing supply and affordable housing tenants are not permitted to rent their homes as this would diminish the affordable housing supply for local residents.</p> <p>Amsterdam spends €4m per year on policing holiday rental properties.</p> <p>Amsterdam, along with Barcelona, Madrid, Vienna, Paris, Reykjavik, Krakow and Brussels, are lobbying the EC to demand that platforms such as Airbnb are legally obliged to share data with regulators. Airbnb currently only releases aggregated data and will release identifiable information</p>

		only on receipt of a court order.
Berlin	<p><a href="http://www.bbc.co.uk/news/technology-36185271">http://www.bbc.co.uk/news/technology-36185271</a> Law: Zweckentfremdungsverbot - prohibition of improper use</p>	<p>Berlin considers the short term lease of more than 50% of a residential unit as a commercial use. To provide a short term lease a permit is required when:</p> <ul style="list-style-type: none"> <li>- Is used for the purpose of the repeated rental of a holiday apartment or a tourist accommodation, in particular a commercial room rental or the installation of sleeping places;</li> <li>- Is used for commercial or professional purposes;</li> <li>- Is modified in such a way that it is no longer suitable for residential purposes;</li> <li>- Is empty for more than six months</li> </ul> <p>The law in Berlin discourages the change of use from a residential property into a commercial property. To strengthen this, the ban on short term leases on guest flats without a permit has been imposed. The law was relaxed in March 2018. A primary residence can now be rented out for an unlimited period and a second residence for up to 90 days. However, a license costing €250 is now required in all cases, and fines have increased fivefold to a maximum of €500k.</p> <p>Berlin use dedicated staff who actively identify possible cases of unlicensed letting through a variety of methods. These include tip offs from neighbours and rental bicycles parked outside apartments.</p>
San Francisco	<p><a href="http://sf-planning.org/office-short-term-rental-registry-faqs">http://sf-planning.org/office-short-term-rental-registry-faqs</a>  (Transient Occupancy Tax 14%)  <a href="https://businessportal.sfgov.org/start/starter-kits/short-term-rental">https://businessportal.sfgov.org/start/starter-kits/short-term-rental</a></p>	<p>Residential properties can be let without planning permission up to a limit of 90 days per year if you obtain a Short-Term Residential Registration for an entire unit and unlimited number of days for partial unit. To be eligible to register you must:</p> <ul style="list-style-type: none"> <li>- You must be the permanent resident of the residential unit that you wish to rent short-term and can only register one unit.</li> <li>- You must obtain a San Francisco Business Registration Certificate from the San Francisco Business Portal. From January 2018, there is a fine of \$1k per day for non-registered properties.</li> </ul> <p>This Short-Term Residential Registration allows owners to advertise their unit on hosting platforms such as Airbnb and costs a fee. Anyone in San Francisco who earns rent from a short-term residential rental is considered a business and may owe taxes. You must obtain a Business Registration</p>

		Certificate and pay applicable taxes to the local authority and register with the Office of Short-Term Rentals.
London (City of Westminster)	<a href="https://www.westminster.gov.uk/short-term-letting">https://www.westminster.gov.uk/short-term-letting</a>	<p>If providing short term lets amounting to more than 90 nights per year cumulatively you will require planning permission for a Change of Use.</p> <p>A short term lease of less than 90 days per year does not require planning permission. This only applies to domestic properties paying Council Tax.</p>
Manchester	<a href="http://www.manchester.gov.uk/info/10084/private_landlords_information/5674/licences_for_privately_rented_accommodation/1">http://www.manchester.gov.uk/info/10084/private_landlords_information/5674/licences_for_privately_rented_accommodation/1</a>	<p>Report from 2008 Committee includes options to address emerging problem of short term lets. Options include:</p> <ul style="list-style-type: none"> <li>• Planning conditions used to restrict use of new apartments to private dwellings;</li> <li>• Review of core strategy policies in relation to residential provision; and</li> <li>• Promoting local legislation.</li> </ul>
Paris	<p><a href="http://qz.com/876984/airbnb-is-gradually-losing-one-of-its-biggest-advantages-over-hotels/">http://qz.com/876984/airbnb-is-gradually-losing-one-of-its-biggest-advantages-over-hotels/</a></p> <p><a href="https://www.theguardian.com/travel/2016/mar/31/airbnb-in-paris-to-warm-hosts-over-illegal-listings">https://www.theguardian.com/travel/2016/mar/31/airbnb-in-paris-to-warm-hosts-over-illegal-listings</a></p>	<p>Paris and other cities in France regard the short term let of a property for more than 120 days per year a commercial property. Properties leased through Airbnb must also collect the same nightly tourist tax paid by hotels.</p> <p>To provide short term lease from your property for more than 120 days per must apply for a change of use permit and register it as a commercial property.</p> <p>From December 2017, all lets must be registered with the government and display a license number when advertising. The French government has taken Airbnb to court for displaying unregistered adverts. The court date is 12 June 2018.</p>
Reykjavik	<a href="http://grapevine.is/news/2016/06/05/new-airbnb-law-approved-by-parliament/">http://grapevine.is/news/2016/06/05/new-airbnb-law-approved-by-parliament/</a>	Residents can rent out their property for up to 90 days a year without needing an operation licence from the state. At the same time, the gross income from renting out their property cannot exceed 1 million ISK.

		If a renter exceeds the 90 day limit, or if their earnings from it exceed 1 million ISK, the county seat may opt to de-register the property's permit to operate as an AirBnB. Fines for offences can range from anywhere from 10,000 ISK up to 1 million ISK.
Denmark	<a href="https://www.bbc.co.uk/news/business-44166174">https://www.bbc.co.uk/news/business-44166174</a>	Maximum rental period of 70 days per year. The Danish government has negotiated an agreement with Airbnb whereby it will automatically report homeowners' rental income to the Danish tax authorities.
Palma	<a href="https://www.bbc.co.uk/news/world-europe-43878007">https://www.bbc.co.uk/news/world-europe-43878007</a>	Flat owners will be banned from renting out their properties from July 2018.
Barcelona	<a href="https://www.citylab.com/life/2018/06/barcelona-finds-a-way-to-control-its-airbnb-market/562187/">https://www.citylab.com/life/2018/06/barcelona-finds-a-way-to-control-its-airbnb-market/562187/</a>	From 1 June, city officials will be able to access Airbnb data on where apartments are located and who the owner is. They will be able to track host ID numbers to verify they do have permission from the city. Strong enforcement of short stay rentals by Barcelona appears to have spurred Airbnb into this arrangement.

Figures from July 2017