Planning (Scotland) Bill – Stage 3

Section 11B

Andy Wightman

156 In section 11B, page 43, line 10, leave out subsection (2) and insert—

<( ) In section 26 (meaning of “development”), after subsection (2A) insert—

“(2B) For the avoidance of doubt, the use of a dwellinghouse for the purpose of providing short-term lets involves a material change in the use of the building.

(2C) For the purposes of subsection (2B), “providing short-term lets” means a short-term let of 31 days or less in a dwellinghouse that is not the sole or main residence of a person.

(2D) For the purposes of subsection (2B), the following tenancies do not constitute a short-term let—

(a) a regulated tenancy within the meaning of section 8 of the Rent (Scotland) Act 1984,

(b) a short tenancy within the meaning of section 9 of that Act,

(c) a contract falling within section 63 of that Act,

(d) an assured tenancy under section 12 of the Housing (Scotland) Act 1988,

(e) a short assured tenancy under section 32 of that Act,

(f) a private residential tenancy under section 1 of the Private Housing (Tenancies) (Scotland) Act 2016,

(g) a tenancy of a dwellinghouse (or part of it) where all or part of the dwellinghouse is the only principal home of the landlord or occupier.

(2E) A dwellinghouse having been used as described in subsection (2B) and being reverted to the sole or main residence of a person does not constitute a material change in the use of the building.”>

Rachael Hamilton

157 In substitution for amendment 1—

In section 11B, page 43, line 10, leave out subsection (2) and insert—

<( ) After section 26A insert—

“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.

(4) The power under subsection (1) includes the power to vary or cancel a designation.

(5) The Scottish Ministers may by regulations make further provision for the purposes of this section including, in particular, provision about—
   (a) the procedure a planning authority must follow in order to make, vary or cancel a designation under subsection (1) (which may include requiring the approval of the Scottish Ministers),
   (b) the form of a designation under subsection (1),
   (c) what constitutes providing a short-term let for the purposes of this section, and
   (d) any circumstances in which, or descriptions of dwellinghouse to which, this section does not apply.

(6) Before making regulations under subsection (5), the Scottish Ministers must consult planning authorities and such other persons as they consider appropriate.”>

Rhoda Grant

158 After section 11B, insert—

<<Meaning of “development”: use of a secondary dwellinghouse

(1) The Town and Country Planning (Scotland) Act 1997 is amended as follows.

(2) In section 26 (meaning of “development”), after paragraph (ab) of subsection (3) insert—

“(ac) the use of a dwellinghouse as a secondary dwellinghouse where the owner—
   (i) already owns a primary dwellinghouse,
   (ii) intends to live in or use the secondary dwellinghouse for no more than 20% of the days in any calendar year,
   (iii) does not intend to put the secondary dwellinghouse to some other use,

   involves a material change in the use of the building,

(3A) The Scottish Ministers may by regulations make further provision for the purposes of subsection (3)(ac).”.

Schedule 2

Rachael Hamilton

159 In substitution for amendment 2—

In schedule 2, page 80, line 15, after <[ ]> insert <26B(5)>