INTRODUCTION

Founded in 1978, the Association of Scotland’s Self-Caterers (ASSC) is the leading source of knowledge on short-term letting and holiday homes in Scotland. The ASSC is the only trade body representing the interests of the traditional self-catering sector. It has more than 650 Members, operating in excess of 7,000 self-catering properties throughout Scotland, and has close links with other European countries, as founding members of the European Holiday Homes Association (EHHA). The ASSC commits its members to maintaining the principles of “quality, integrity, cleanliness, comfort, courtesy and efficiency” and to offering visitors to Scotland consistently high standards within their self-catering properties. The ASSC’s vision is to place our members at the forefront of a professional, vibrant and prosperous Scottish self-catering sector.

The Association of Scotland’s Self-Caterers (ASSC) welcomes the opportunity to supply written evidence to the Scottish Parliament’s Local Government and Communities Committee call for evidence on the Scottish Government’s Planning (Scotland) Bill.

The Planning (Scotland) Bill is wide-ranging in scope and it is not our intention to respond directly to the list of questions outlined by the Committee. While short-term and holiday lets are not explicitly referenced in the Bill, the ASSC is conscious of the wider debate in Scotland on the proposed regulation of our industry, with some of the responses to the Scottish Government’s Places, People and Planning consultation noting the impact of short-term lets on the housing market. Others have contended that there was an opportunity to regulate through the Planning (Scotland) Bill with the introduction of new use class orders.

It is within that context that we set out our views to the Committee.

PLANNING USE CLASS ORDERS

In this section, we set out our stance on planning use class orders, which have been posited as a means to regulate the growth of the short-term letting sector, as well as providing some necessary background on the issue.

The Town and County Planning (Use Classes) (Scotland) Order 1997 sets out 11 Use Classes of property. In terms of planning, self-catering and short-term letting is
considered to be ‘residential’ – the character of the occupation has not changed for the purposes of planning. People stay for short periods and possibly for holiday purposes, but it is essentially their home for that period. It remains residential for planning purposes.

There is currently no planning class for short-term letting. Short-term rental properties are classed as *Sui Generis* - meaning “of its own kind”/*the only one of its kind*, i.e. unique. Using the term *Sui Generis* enables the local authority in question to be non-specific about the planning class. It is for this reason that Edinburgh City Council Planning Authority looks at each case on a case-by-case basis, depending on objections or a complaint received.

In shutting down an apartment in Edinburgh, Edinburgh City Council cited a “breach of planning permission and material change of use for residential flat (sui generis) to short stay commercial leisure apartment (sui generis)”. In terms of the classes order, if something is in the same classes order, it does not matter if things ‘look different’ or are different, you can continue to use it without Change of Use planning permission. Short-term letting is not identified as a Change of Use from residential. Local authorities will need to offer a solid case to state that the occupation of a short-term let property has changed from residential use and represents a material change of use.

The ASSC does not support a review of Planning Use Class Orders. Nonetheless, the ASSC would agree in principal to local authorities having the ability to control development of the short-term let market in specific urban areas where there are housing pressures, however, this may not be achieved via Planning Use Class Orders. There may also be a case for making a regulatory distinction between amateur and professional, or commercial, activity.

Tackling some of the concerns associated with short-term lets, for instance in relation to public nuisance or noise, can be addressed through enforcement of existing powers available to local authorities. This includes:

- Part 7 of the Antisocial Behaviour etc. (Scotland) Act 2004 enables local authorities to serve an Antisocial Behaviour Notice on a private landlord when an occupant or visitor engages in antisocial behavior at, or in the locality, of the property.
- The Scottish Government introduced the Antisocial Behaviour Notices (Houses Used for Holiday Purposes) (Scotland) Order 2011 that granted local
authorities the power to deal specifically with the problem of antisocial behaviour in properties let for holiday use.¹

In respect of the latter, we also note the comments made by the Scottish Government’s Minister for Local Government and Housing:

“Local authorities have quite comprehensive powers to deal with antisocial behaviour and noise nuisance; I expect them to use those powers effectively…I challenge local authorities to consider using it [Order 2011] and other antisocial behaviour powers, as well as the powers in relation to noise and environmental health that are currently at their disposal… The powers may not be being applied properly, which might be the difficulty in all this…[U]nder the order that I mentioned, the antisocial behaviour notice is served not on the people in the property who are causing the problem but on the landlord. That is extremely important. Folk having left a property should not affect in any way, shape or form the serving of a notice on the landlord.”²

CONCLUSION

The ASSC wants to engage with policymakers, both locally and nationally, to find proportionate and workable solutions to problems raised on short-term lets, ensuring that the growth of the sector is balanced, sustainable and successful. To this end, the ASSC is happy to follow-up with the Committee with any additional evidence that they may require to inform their scrutiny of the Planning (Scotland) Bill.

Short-term lets generate significant value for Scotland’s economy and assist in fulfilling visitor demand, offering an authentic experience for tourists.³ However, it has been argued that the short-term letting in city centres in particular has negatively impacted on residential living. In response to such concerns, we have produced a Code of Conduct for short-term let operators to encourage best practice, and help strike an appropriate balance between accommodating tourists and the needs of residents.⁴

¹ As an aside, City of Edinburgh Council has successfully used existing legislation to apply for a Management Control Order for two ‘party flats’ in Grove Street. This allowed them to assume all landlord responsibilities for a period of 12 months.
The Committee may be interested in the contents of a new ASSC commissioned study by Frontline Consultants, which aims to add to the evidence base on short-term lets in Scotland.\textsuperscript{5} This is expected to be published in March 2018. We further note that the Scottish Expert Advisory Panel on the Collaborative Economy has recently published their recommendations\textsuperscript{6}, which include measures on short-term lets, and we look forward to Scottish Ministers responding to the report in due course.

Finally, the ASSC wishes to indicate a desire to provide oral evidence to the Committee’s consideration on the Planning (Scotland) Bill should any of the three stakeholder panel sessions focus on matters relating to housing policy, specifically if the Committee anticipate covering short-term lets.

Fiona Campbell
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