

**HILLHEAD COMMUNITY COUNCIL**

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**RESPONSE TO PLANNING ENFORCEMENT REGULATIONS 2007 consultation paper.**

We generally welcome the measures proposed , but have a some concerns.

**Concerns are:-**

1. Temporary Stop notices should also apply to 'dwellings' under some circumstances, particularly where there is a change of use, e.g. conversion to HMO use..
  - Where HMOs are concerned it should be possible to issue a stop notice. There are periods when such a property is being prepared for HMO use in advance of applying for a licence, but not yet occupied. Considerable damage is done to tenements in the course of such alterations (e.g. shifting of kitchens, removal of original features in conservation areas, partitioning of rooms to increase letting capacity). This is before planning consent is even considered and before application is made for an HMO licence. This also occurs in areas where there is no possibility of planning consent being granted. It is common practice for landlords and management companies to ignore enforcement notices altogether. There is always a period for any inhabitants to find alternative accommodation.
  - We can see no other measure which would prevent the unauthorised and damaging change of use to buildings which have such an adverse impact on communities, tenements, housing stock and conservation areas. Glasgow City Council classes HMOs as *sui generis*
  - Currently managers of HMOs ignore enforcement notices even if taken to court. This is a situation which cannot be allowed to continue and which Temporary Stop Notices might help to address. We can see no other measure which would prevent the unauthorised change of use of buildings.  
**Cf. also below under Temporary Stop Notices and Q 11.**
2. We also think that some features of the order should be applicable to smaller developments. The proposal to post information outside major developments only is unsatisfactory.
3. Conservation areas are not given sufficient protection in this document. Unless these measures are extended to any development in Conservation areas we are certain that the character of such areas will be irreversibly affected.  
ALL measures should apply to developments of any size or nature in such areas.

4. Where are the enforcement officers to come from? There are insufficient at present. Measures have to be put in place to ensure that sufficient officers are available.

Funds for enforcement are, according to one of our local councillors, the last item to be considered when budgets are being divided up.

We understand that Fife has one enforcement officer and other authorities have none. Even in Glasgow enforcement officers are having to take on more cases than they can reasonably be expected to oversee.

Sharing of enforcement officers is not an option.

#### **Fixed Penalty Notices.**

We welcome these. However, we are concerned by the proposal that the offender can appeal and by the level of maximum fine.

Some developers prolong appeals until the work is completed and they vanish.

Our concern here is primarily HMOs, where it is a widespread practice for landlords to make maximum profit from appeals and delays, and even to ignore the enforcement notices since it is far more profitable to continue to operate.

*One example is a management company in this community council area, which ignores enforcement notices dating from 1993 and continues to operate despite court appearances*

- We suggest that where HMOs are concerned the maximum fine should be imposed at each breach.

#### **Breach of conditions notices.**

Again we know of developers who persistently ignore breaches of conditions. In view of the proposal in the NPF consultation for such breaches to become valid after the lapse of 4 years this part of the proposals needs a radical rethink.

- We think that the fine should be dramatically increased if this is to have any teeth or to deter such developers.

#### **Notification of Initiation of Development (NIDS)**

- On site notices should be displayed for any development in conservation areas.
- Since many householders use lamp posts for display, it needs to be made clear that the notice should be displayed outside the premises where it can be clearly seen at pavement level and should refer to the application and address.
- They should be waterproof: plastic bags fill with water and the notice is then illegible.
- There should be a duty on the developer/householder to ensure that notices are permanently displayed (they tend to be removed by vandals).

#### **Temporary Stop Notices**

(see under concerns 1 above)

**We welcome these but have some concerns.**

- These and stop notices should be applicable to HMOs for the reasons stated above.
- We understand from opinion given at a seminar on enforcement that there would be no financial penalty to the local authority imposing

these notices even if an appeal were upheld.

Nevertheless we think that this aspect should be made watertight if local authorities are not to be discouraged from using these new powers.

- Perhaps any right of appeal could be removed or severely restricted?.

#### **Answers to questions**

**Q1 YES. But cf remarks under 'Concerns'**

**Q2** The proposed initial amounts would be considered derisory by landlords HMOs where the profits per month can be extremely large. such cases the amounts should be dramatically increased. Otherwise the fine will have no impact at all.

**Q3** We think that the timescale is far too long and the fines are far too small.

**Q4** More information should be given in the displayed notice.

- We would include the planning application number, the address, and conditions  
(local people are the source of information that conditions are being broken)  
At the very least, the details of the development and conditions should be available in a local library if it is not practical to give all of them.
- A council contact number should also be given to allow people to advise the council of any concerns, as we understand is the intention.

**Q5** no comment.

**Q6** see under Q 4

**Q7 Expand to include any development of any size or nature in conservation areas.**

**Q8** Continuity and readability of notices are important. See under **NIDS** above re requirement for waterproof notice . WE would prefer a laminated notice.

Also see comment on need for continuous display and appropriate location.

**Q10** None

**Q11** We think that unless the problem we highlight of action which needs to be taken against HMOs and use of a building, enforcement will continue to be seen by offenders as something they can ignore with impunity and by those principally affected as useless. Both bring the system into disrepute.

Something will also need to be done to reduce the delays caused by appeals and the level of fines, not only those enabled by the legislation, but those actually imposed by the courts.

We recommend

- Make fines more of a deterrent
- Give local authorities power to close HMOs where enforcement notices are ignored

- Give also the power to close HMOs where the fixed penalty reaches a certain level.
- Make it a legal requirement that planning permission **must** be required **before** an HMO licence can be granted. (This alone would save a great deal of officer time and damage to property, It would also contribute greatly to sustainability of communities.)
  - Failure to provide any legal link between planning consent and licensing is the major source of confusion for landlords and neighbours alike.
  - It is what enables HMO landlords to continue to ignore any planning legislation or enforcement notice.

Without this legal link we are sure that enforcement is doomed to failure.

We would also ask you to consider removing enforcement from criminal courts to an environmental court in the interests of speeding up the process and allowing councils to retain fines.

ENDS