

BRIGHTON & HOVE CITY COUNCIL
SCRUTINY PANEL ON PARTY HOUSES - 20 FEBRUARY 2014
COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Bowden (Chair) Bennett and Robins

PART ONE

18. CHAIR'S INTRODUCTION AND FEEDBACK FROM PREVIOUS MEETINGS

- 18.1 The Chair of the Panel welcomed everyone to the fourth and final public meeting looking at 'short term holiday lets'.

19. INSPECTOR GARETH DAVIES, SAFE IN THE CITY TEAM

- 19.1 Inspector Gareth Davies, Safe in the City Policing Team, explained how the police would address any complaints that they received about nuisance caused by short term holiday lets. Inspector Davies clarified that this was not a particular problem area for Brighton & Hove but outlined their general approach.

When a call is received by the police contact centre, it is assessed according to harm being caused. If the call concerned noise or other anti-social nuisance, a standard set of anti-social behaviour assessment questions would be asked to assess the level of response needed.

The police use four response levels, emergency (aiming for response within 15 minutes), immediate (within an hour), planned follow up (passed to Neighbourhood Policing Team to follow up within a few days), and lastly, noted for information.

Complaints about noise caused by short term holiday lets would tend to be graded as 'planned follow up' although this could be increased if circumstances made it necessary, for instance if there was additional rowdy behaviour or if a complainant was particularly vulnerable.

- 19.2 Inspector Davies clarified that police are aware of the impact of people pre-loading on alcohol before they go out, and that the repercussions of this are covered by Operation Engage.
- 19.3 Panel members said that they had heard residents saying that they did not bother calling the police as they did not get a response. Inspector Davies commented that it was true that police powers were limited but it was vital that the police had as much knowledge about a neighbourhood as possible and urged residents to log calls with the police. This would help to build the bigger picture and help to focus police resources where they were most needed.

Inspector Davies added that the police might not always need to take the lead on a particular issue, if a more appropriate agency was involved. agencies would have more impact than others, depending on the particular circumstance. Police powers were very limited dealing with noise coming from a private dwelling; a significant amount of public disorder legislation only applies to public spaces.

20. DEXTER ALLEN, EAST SUSSEX FIRE AND RESCUE SERVICE

- 20.1 The Chair asked Dexter Allan from East Sussex Fire and Rescue Service to clarify some of the information that he had given at the last session regarding applying domestic or commercial fire regulations to a property.

Mr Allan said that if a business was operating in any part of a building, commercial fire regulations would apply.

21. COUNCIL OFFICER DISCUSSION

- 21.1 **Aidan Thatcher, Planning Enforcement Manager**, spoke to the panel about the planning enforcement approach to short term holiday lets.

Mr Thatcher said that enforcement relied on complaints being made about a property. The Enforcement Team would measure the ‘amenity harm’ from a property that was being investigated; it was not necessarily the cause that amenity harm was automatically caused.

If they received a complaint about an unauthorised short term holiday let, they would ask the complainant to provide an evidence base including how often the property was used, and the amenity harm being caused. The Enforcement Team would cross-reference the complaint with other departments and agencies including Environmental Health, and the police, to check if they had had any complaints about the property. The next stage would be to serve a Planning Contravention Order on the owner, asking them to clarify the type and frequency of use. When they received the information back, the Enforcement Team could then consider whether a Change of Use had happened.

- 21.2 In a twelve month period, the Enforcement Team had received four complaints about ‘short term holiday lets’ but initial enquiries with other departments had shown that no complaints had been made nor had noise diaries been completed so it was not possible to determine whether there had been a change of use.

- 21.3 Mr Thatcher said that there was no use class within planning legislation for short term holiday lets, so the property would be changed to use class ‘sui generis’. [‘outside classification’]. Any potential change to this, for example, adding a class for short term holiday lets, would have to come from central Government.

Mr Thatcher confirmed that the Enforcement Team would be happy to work with the newly established Brighton & Hove Holiday Rental Association.

- 21.4 **Annie Sparks, Environmental Health Manager**, spoke to the panel next. Ms Sparks manages the Environmental Protection Team and the out of hours Noise Patrol service,

which operates between 10pm and 3am on Friday and Saturday nights. Two officers run the service with the help of a controller. Officers generally visit Noise patrol customers within an hour.

Under the provisions of the Environmental Protection Act 1990 the team has a statutory duty to investigate noise complaints received, and assess whether a statutory noise nuisance exists. Noise nuisance is assessed having regard to the character, duration and frequency of the noise and how it affects a person in their home. They need to gather robust evidence in order to serve a noise abatement notice on the perpetrator, and this includes use of noise diary sheets, noise recording equipment that can be left in customer's homes, and visits by officers to witness the noise.

21.5 In 2011, there was a series of complaints about nuisance caused by short term holiday let properties having large parties, including the properties in Cliff Road that were the subject of legal action. As a result of these complaints, the Environmental Health Team met with some of the holiday let operators, East Sussex Fire and Rescue Service, and various council teams to discuss a way of managing these cases and preventing noise nuisance to neighbours. Ms Sparks said that since that time, the industry had taken ownership of the issue and they had not received the same number of complaints associated with these short term let 'party houses'.

21.6 Ms Sparks commented that one stumbling block which might prevent people from formally complaining about noise is that legally a property owner has to declare any noise complaints when they sell their property. This might put people off complaining.

Since 2011 and the multi agency meeting with holiday let operators there is a practice of sharing intelligence and information on case with East Sussex Fire and Rescue, Planning Enforcement, Neighbourhood Policing, and Community Safety Partnership. There are now regular internal joint intelligence meetings between the above agencies where cases such as this are discussed.

Ms Sparks said that she welcomed the newly formed trade association. Environmental Health would be happy to share intelligence and good practice with them.

21.7 The panel asked about the so-called 'grey market'; was this causing problems in regulation terms? Ms Sparks said that there would always be some operators who did not want to join a trade association. She hoped that the multi-agency approach that had been taken since 2011 could mean enforcement action would be taken where necessary as well as encouraging owners to join the trade association.

21.8 **Anabel Carrington and Siobhan Bostock, Community Safety Team** explained their approach to complaints. They have joint working protocols with police, environmental health, planning etc. They can also link into the Local Action Teams.

Their focus is on ongoing issues rather than one off problems. Over the last twelve months, the only reports that they have had regarding any nuisance caused has been about one-off incidents so it has not been appropriate for them to take action.

In common with the other teams seen so far, the Community Safety Team relies on robust evidence in order to take action. In the case of short term holiday lets, the

residents change every week and so it would be hard to take action against an individual.

- 21.9 The panel and people present at the meeting then discussed the issues that they had heard and how to balance the needs of everyone involved.
- 21.10 The Chair said that he was willing to listen to the operators' request not to over-regulate the industry. It was not in any operator's interest to run poorly managed accommodation. He was very pleased that the operators had formed the trade association and guidelines, and hoped that in time this could spread beyond Brighton & Hove.
- 21.11 Mr Allan said that with regard to public services, if savings kept being made in services, it would soon impact the capability for regulatory services.
- 21.12 Several residents asked to speak to the panel again; this was allowed.
- 21.13 A resident who spoke at the first meeting said that he and neighbours had complained about noise since 2010, but that very little action had been taken by the operators who managed the property. The residents had originally been given details of a housekeeping company to contact in case of noise disturbances but this was no longer in operation and he did not know where to turn.
- 21.14 Crown Gardens, who manage the properties referred to, responded to his comment. They said that the house keeping number was the correct one to call at the time, but the company had ceased trading. The property had then been registered with a local security company to provide 24/7 cover. Unfortunately in this case, the owner had decided to opt out of the security company service, which was her choice to make.
- 21.15 The member of the public also read out a statement from a neighbour who was also affected by the short term holiday lets in his area. Her view was that planning legislation would be appropriate; if owners had to apply for change of use it would give a better opportunity for residents to object and could provide a fast track to getting the property closed down if needed.
- 21.16 Mr Watts from Beatnik Breaks commented that the sector was always learning, and the example of Crown Gardens above was an indicator of the operators responding to complaints from residents and trying to address the problems as best as possible. He suggested that the guidelines issued by the new trade association include the need for a licensed security service to be in place.
- 21.17 The member of public attending on behalf of his mother, said that he had found today very predictable. He knew that in London, GLC legislation was in place to stop short term lets, it was a real pity that this could not be extended out of London. He felt that the current noise nuisance complaints system was not appropriate for short term noise complaints.
- 21.18 Mr Thatcher, Planning Enforcement, said that under GLC guidance, anything that is let for less than 90 days needs to have a change of use application. This only applies to London.

21.19 The resident from Kingscliff said that whilst noise complaints were a serious issue, she hoped that the panel would not forget other impacts of short term holiday lets, in particular the effect on existing communities.

21.20 Mr Watts added that it seemed that the discussion was centred about the 'grey market' which was harder to reach and not on any agency books. It was hard for the operators or agents to do anything either, but it should be remembered that 99% of properties were managed responsibly. He repeated the request not to use planning legislation to address these problems, he felt that adding any planning procedures as a matter of course would drive responsible operators away from the market and leave it for less responsible ones to provide the service.

If someone was making complaints about noise from a permanent resident, they would still need to gather robust evidence about the nuisance being caused before taking action. It should be the same for short term holiday let properties; they should not be closed down or turned away on the assumption that there might be problems.

21.21 Dexter Allan said that he felt there were a number of opportunities to take this forward in a positive way. The main way was by working with responsible operators, this could lead to great opportunities. There was the chance to adopt an effective self-regulatory approach without crushing the industry.

21.22 The Chair said that there was still the problem of the 'rogue' elements, who would enforce against them? He felt that there was a disconnect.

21.23 Mr Watts spoke on behalf of BHRA; he was concerned that there was an appetite to legislate amongst panel members. He summed up the various agency positions: ESFRS backed the self-regulation of BHRA, there were powers within noise abatement and private agencies also employ their own noise patrol service who can alert statutory services to problems prior to complaints being received as they patrol throughout the night. There are also existing powers in planning if they are needed, so he does not feel that further legislation is necessary.

21.24 The Chair commented that he was also responsible for the city's tourism economy as Chair of the Economic Development & Culture Committee. He had no desire to diminish a growing market but he was keen that the operators developed to as mature an organisation as possible.

21.25 Councillor Robins said that he felt that self regulation was a key recommendation.

22. CONCLUDING COMMENTS FROM CHAIR

22.1 The Chair thanked everyone who had taken part in the meeting. The next stage would be for the panel to meet to discuss what they had heard and the recommendations that they would like to make. The panel report and recommendations would be made publicly available as soon as possible.

The meeting concluded at 4.30pm

Signed

Chair

Dated this

day of