



OFFICIAL REPORT
AITHISG OIFIGEIL

Local Government and Communities Committee

Wednesday 5 June 2019

Session 5



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LOCAL GOVERNMENT AND COMMUNITIES COMMITTEE

17th Meeting 2019, Session 5

CONVENER

*James Dornan (Glasgow Cathcart) (SNP)

DEPUTY CONVENER

*Alex Rowley (Mid Scotland and Fife) (Lab)

COMMITTEE MEMBERS

*Annabelle Ewing (Cowdenbeath) (SNP)

*Kenneth Gibson (Cunninghame North) (SNP)

*Graham Simpson (Central Scotland) (Con)

*Alexander Stewart (Mid Scotland and Fife) (Con)

*Andy Wightman (Lothian) (Green)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Isobel Butt (Perth and Kinross Council)

Maureen Flynn (South Lanarkshire Council)

Sarah-Jane Laing (Scottish Land & Estates)

Joan MacLellan (Falkirk Council)

Andrew Mitchell (City of Edinburgh Council)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Local Government and Communities Committee

Wednesday 5 June 2019

[The Convener opened the meeting at 09:45]

Decision on Taking Business in Private

The Convener (James Dornan): Good morning, and welcome to the 17th meeting in 2019 of the Local Government and Communities Committee. I remind everyone present to turn off their mobile phones.

Under agenda item 1, I seek the committee's agreement to take items 4 and 5 in private. Do we agree to do so?

Members indicated agreement.

Empty Homes

09:45

The Convener: Item 2 is the second evidence-taking session on empty homes. I welcome Sarah-Jane Laing, who is the executive director of Scottish Land & Estates; Andrew Mitchell, who is the regulatory services manager at housing and regulatory services in the City of Edinburgh Council; Joan MacLellan, who is a senior strategy officer in corporate and housing services at Falkirk Council; Maureen Flynn, who is a strategy and policy adviser in housing and technical resources at South Lanarkshire Council; and Isobel Butt, who is vacant property development officer at Perth and Kinross Council.

We will move straight to questions.

Graham Simpson (Central Scotland) (Con): Good morning, everyone. We had the Scottish empty homes partnership before us the other week. Its view is that every council should have a dedicated empty homes officer. I have not checked which of the councils that are represented here today have one of those, but perhaps those of you who do could say what difference that makes and those of you who do not could say why you do not, and whether you think it matters.

Andrew Mitchell (City of Edinburgh Council): Edinburgh is in a process of change in that regard. We had an empty homes officer, but the housing committee decided a couple of years ago to mainstream the role to ensure that there is a broader base of staff doing that. Recently, as part of the council's budget, there was an agreement to fund an empty homes officer once again. We are currently recruiting to that post in order to give a renewed focus on empty homes.

Joan MacLellan (Falkirk Council): We have had an empty homes officer since 2003. Until 2016, that was part of a shared service with Clackmannanshire Council and Stirling Council. We now have two empty homes officers, who work on buy-backs and empty homes. Having them has made a big difference to the number of empty properties that have been brought back into use: there have been just over 400 in the past six years.

Graham Simpson: That is impressive. You went from having no empty homes officer to having two.

Joan MacLellan: There is one full-time equivalent officer. The two officers work on our buy-back scheme, too.

Maureen Flynn (South Lanarkshire Council): We do not have a dedicated empty homes officer.

We have a development and private sector team, and part of its remit involves empty homes and the open-market purchase buy-backs that have been mentioned. The thinking behind that is that we want to ensure that we take a strategic approach to empty homes and that we link that back to our local housing strategy. We think that, in terms of effectiveness and the best use of resources, that is the best approach in South Lanarkshire.

Graham Simpson: “Strategic approach” is councilspeak, and not many people outwith councils will know what you mean by it.

Maureen Flynn: We just want to ensure that there is a link back to our local housing strategy, which is where we would identify our priorities in terms of housing supply and demand in South Lanarkshire. The development and private sector team fit in as part of that overall approach. It has a wider remit, in that it is involved with empty homes as well as open-market purchase and housing supply across South Lanarkshire. Maybe a better way of putting it is to say that we are taking a holistic approach.

Graham Simpson: Open-market purchase involves waiting until houses are on the market; it does not necessarily tackle the problem of empty homes.

Maureen Flynn: I just wanted to mention the fact that the team has a wider remit.

Isobel Butt (Perth and Kinross Council): Perth and Kinross Council has had empty homes officers since 2012. We deal with the issue slightly differently, because we are in planning and development, whereas all the other empty homes officers sit in housing. There are two of us, and we work part time—the full-time equivalent figure is 1.6. We hope to bring back 150 empty homes per annum, and we are on target to do that this year.

Graham Simpson: You bring back 150 empty homes a year.

Isobel Butt: Yes.

Graham Simpson: How long has that been going on?

Isobel Butt: The scheme has been running since 2012, but the figure has not been 150 every year—that is our target for this year.

Graham Simpson: Is that work assisted by having empty homes officers?

Isobel Butt: Definitely.

Graham Simpson: That makes a big difference.

Isobel Butt: Yes.

Graham Simpson: That is very useful.

Have any of you used the council tax levy on empty homes? If so, how have you used it?

Andrew Mitchell: City of Edinburgh Council is utilising that power to its maximum. There is a staged process, which is often dependent on how long the property has been empty, and the money that is generated contributes to the council's provision of affordable homes. Wherever possible, the council exercises that income stream as a way of funding other things and discouraging people from keeping homes empty.

Graham Simpson: Do you use the levy in every case?

Andrew Mitchell: Some discretion is applied in extreme cases, but the council uses the levy and will not apply the percentage discount in the vast majority of cases.

Joan MacLellan: Falkirk Council has using the levy since 2017 for properties that have been empty for more than 12 months. We have discretion, so people can ask for discretion to be applied if the property is undergoing major works. The discount is at 50 per cent, and it usually applies for six months, but people can ask for further discretion to be applied after that time. The money is used to fund the empty homes officer.

Graham Simpson: The extra money goes towards paying for the empty homes officer.

Joan MacLellan: Yes.

Graham Simpson: How many people in the Falkirk area have asked for discretion to be applied?

Joan MacLellan: I will be honest and say that I do not know. I would need to get back to you with that figure.

Maureen Flynn: We introduced the additional levy in April, so it is fairly new in South Lanarkshire. We carried out a full review as part of the preparations for introducing the levy, which has resulted in some changes to categorisation of the information that we receive. There is limited discretion, and that is primarily applied to new owners who take on an empty home.

Graham Simpson: I will come back to you on the question of discretion after we hear from Isobel Butt.

Isobel Butt: We have used the levy for the past two years, and we apply discretion, too. The carrot and stick approach has worked very well. We have applied discretion to about 70 properties per annum—so, about 140 properties in total. Those cases involve owners who are working to repair their properties, so we charge them 90 per cent of their council tax for 18 months, while they do the work.

Graham Simpson: We had a private session with people from various areas of Scotland, including some from the rural part of South Lanarkshire. Questions arose about the discretionary power, which does not seem to be applied in South Lanarkshire. We spoke to some people whose homes had become empty or who had bought empty homes. They clearly wanted to renovate them—and were doing so—but those people, who are not rich, were then hit with the extra council tax charge. According to what the committee heard, that could affect renovation work and mean that homes would be empty for longer than they would be otherwise. I guess that the councils that apply discretion do so for that very reason. Why is that not being done in South Lanarkshire?

Maureen Flynn: As I said, the scheme in South Lanarkshire was newly introduced in April. Obviously, we are monitoring its introduction, effectiveness and encouragement. There is a carrot and stick approach in encouraging owners to bring their properties back into use. We are monitoring the scheme closely to see whether we need to rebalance it in any way or whether it is acting in the way that we expected.

On discretion, a distinction has been made between owners who have owned a property for a number of years and, for whatever reason, have not brought it back into use, and new owners who are actively looking to bring a property into use.

As I have said, we are monitoring the scheme closely to see whether any rebalancing needs to be done or whether it is working in the way that we expected.

Graham Simpson: According to what we heard, not much monitoring was going on. The individuals whom we spoke to hardly had any contact from the council. The advantage of having an empty homes officer is that there should be a direct contact. Your approach sounds more like a stick approach than a carrot approach.

Maureen Flynn: The development and private sector team is available to provide information, advice and support to owners. We do not have a named individual; rather, we have a team. From our point of view, that is better in that a wider group of people can provide information, advice and support to owners with a team responsibility as opposed to an individual responsibility.

Graham Simpson: Okay. My next question could be for all the witnesses. Do you monitor how long properties have remained empty for and any serious cases? Do you have records of properties that have been empty for over five years, for example?

Andrew Mitchell: Our records could always be more sophisticated but, in general, we know

roughly for how many years a property has been empty. The City of Edinburgh Council's activity focuses largely on properties that cause community problems—there are a number of those. We choose to target the available resource at them. However, we keep some statistics.

Joan MacLellan: On our database, we have approximate dates for when properties became empty, so we have an idea of properties that have been empty for a longer period of time. We try to target them and engage with the owners as much as we can.

Isobel Butt: Likewise, our database information comes from council tax information. We know how long properties have been empty for, and we prioritise such properties along with—

Graham Simpson: So, you prioritise them.

Isobel Butt: Yes.

Maureen Flynn: We are also able to tell how long properties have been empty for. We have records that are based on council tax records.

Graham Simpson: Do you prioritise those cases?

Maureen Flynn: Not specifically.

Graham Simpson: No, you do not. When I was a councillor in East Kilbride, there was a house in the Mossneuk area of my ward. It has been empty and boarded up for over 10 years. It is a blight on the area, and nothing has been done. That is an example of where an empty homes officer could take proactive action to get a house back into use. If you kept proper records and took action, we could see some improvement.

Maureen Flynn: We have records. We share the same records as other authorities.

10:00

Sarah-Jane Laing (Scottish Land & Estates): From a property owner's point of view, the lack of consistency in the application of discretion on the council tax levy is frustrating, and not just in South Lanarkshire. We are dealing with cases in the Scottish Borders Council and Midlothian Council areas in which people who have active repair plans—some of whom are waiting for building warrants from the council—have the 200 per cent levy applied, without any discussion.

On Graham Simpson's first point about the value of empty homes officers, our members' feedback is that they really value the support from dedicated empty homes officers—or teams, because they can bring in expertise in other disciplines from other areas of the council—because they understand the issues that are faced

by the property owners. It is definitely a valued resource.

Alexander Stewart (Mid Scotland and Fife) (Con): Town centres have empty properties, the majority of which—the committee has found—have a business on the ground floor and empty properties on the first and second floor. How have you been tackling that? Getting people back to living in city centres seems to be one of the bigger problems.

Sarah-Jane Laing: My first full-time job—which was longer ago than I would like to admit—was tackling that very problem for Roxburgh district council, 25 or nearly 30 years ago. We still have the problem. We tackled that on an individual property basis; there was not a blanket approach. We looked at housing and economic development jointly, so we dealt with housing and property issues together, rather than separately. Given the regeneration that happened in Hawick and Kelso at the time, that seemed to work.

The problem was linked to long-term leasing. Rather than saying to people, “Bring those properties back into use and let them to whoever you want”, tying the properties into arrangements with the local authority was what worked, and that is still relevant today. Doing that ensures that the housing supply is not just short term, but long term. It was about incentives and money, and helping those people to bring their properties back into use.

Isobel Butt: We concentrate on town centres, and we have a grants scheme that assists owners. We have used some council tax money to set up a small grants scheme, including a feasibility fund through which, if somebody needs architect’s drawings, quantity surveyors or engineers, we can match fund their fees. We also have an empty homes initiative grant for converting commercial property to residential or for upgrading residential properties, which is tied into letting properties at local housing allowance levels for five years.

Maureen Flynn: As part of our affordable housing supply programme, we are actively identifying sites that have fallen into disrepair within town centre areas. Bringing properties back into use in the town centre areas would be a regeneration project. I am thinking particularly about Hamilton and East Kilbride.

The Convener: To go back to earlier responses, why did the City of Edinburgh Council decide to do away with its empty homes officer in the first place? Was that purely a budget decision that ended up costing the council money?

Andrew Mitchell: Not at all. Although we did not have a dedicated empty homes officer, we had a member of staff with that function in their role. One of the significant challenges that we face is

having people to go on the ground and visit and inquire about these properties. That element was co-located with one of my teams, which has responsibility for private rented sector property anyway, and which is on the ground carrying out inspections and visiting the community. The thinking was that that element of the work sat better in that team and, in the next few months, it will continue to sit there, but there will also be an empty homes officer to give the issue a focus in the council. The decision was not a budgetary measure; it was just that the resource was needed to find the properties, inquire about the ownership and deal with individual property owners.

The Convener: You thought that you could do it without an empty homes officer, but you are now finding that you need an empty homes officer, because they give a point of contact for the home owner.

Andrew Mitchell: Indeed. I need to be somewhat careful because this relates to committee decisions that were taken by different administrations, but the current thinking is that there needs to be a renewed focus on having an empty homes officer to act as the point of contact, which will build on having the officers on the ground.

The Convener: I am afraid that I have to go back to South Lanarkshire Council and ask why it has only just implemented the empty homes levy. The council seems to be a bit behind the others in implementing it.

Maureen Flynn: I am sorry, but I am not sure of the answer to that. I can find out the background and come back to the committee on that.

The Convener: It looks as if South Lanarkshire is doing things a wee bit differently from most other places. Do you have any statistics that show that the method that you are taking has been more successful than having empty homes officers and the other methods that other councils have talked about today?

Maureen Flynn: I take the point that was made earlier that we would want to look at any empty home, and that any empty home has the potential to cause problems in a community. The number of empty homes in South Lanarkshire is well below the national average—there were 0.62 per cent empty homes in South Lanarkshire in September 2018. I understand that, because of recategorisation since we carried out the review and introduced a levy, that figure has fallen further and is likely to be much lower than that.

We have a wider team approach to helping and providing advice and information. The way in which we have set it up is effective for the circumstances in South Lanarkshire. Although I do

not minimise the fact that we have empty homes, our approach is effective and is working.

The Convener: The evidence that we heard in private session suggested that having a named person who people with concerns could contact would be beneficial. I therefore suggest that South Lanarkshire Council should at least ensure that the information about where people should go is out there.

Maureen Flynn: The information is out there. When we were contacting owners about the introduction of the levy, we produced a leaflet. We also have information on our website and signpost owners to the team and its availability to provide advice and information.

The Convener: I will ask a number of other questions. What are the main reasons why homes become and remain empty?

Joan MacLellan: There are a number of reasons—there is not one overall reason. The reasons include poor marketing, the fact that the owner has other priorities or does not realise how much time and money it will take to refurbish a property, and issues with repossession or the death of a family member. The reasons can be complex and they usually require the empty homes officer to give the owner specific and tailored advice and information to help them to bring it back into use.

Sarah-Jane Laing: There are another couple of reasons from a landlord's point of view. One reason is money: the financial cost of bringing properties up to the standard—in relation to the repairing standard and energy efficiency—that is now required to let them. Everyone wants to have high-standard homes and landlords want to deliver those, but the cost of bringing poor-quality properties—there are some very poor-quality properties in rural areas—up to the standard is greater than many of them realised when they bought or first looked at the property.

There are also risks from a landlord's point of view, some of which are not real but perceived, including a lack of understanding about how new private residential tenancies work, and worries about whether they will be able to get their property back. That is where empty homes officers can offer advice to landlords who are maybe unaware of the realities of the tenancy regime, especially those who have inherited properties and suddenly become landlords by default. Lots of people are looking for advice at the moment and Shelter does a great job, but there are still some landlords who are reluctant to let their properties because of that perceived risk to their asset.

Andrew Mitchell: The issue about markets does not apply in Edinburgh, given the strength of our housing market. We come across issues with

people who are actively choosing to sit on the asset and not wishing to dispose of it. We have had examples of people saying, when we engage with them, "What has it got to do with the council? It is our property and we are leaving it vacant." From an Edinburgh perspective, because of our houses in multiple occupation market and student market, the issue is about the repairing standard in the private sector. The demand for student accommodation and short-term lets is such that there is a good market in Edinburgh for any property that is sitting vacant that somebody wants to sell.

The Convener: Edinburgh has a different problem from some other areas in Scotland.

Isobel Butt: Another thing is that the owners of a lot of empty homes are working on them, but they may have ill health or something and it is just taking a long time. Tradesmen often buy properties to work on when business is quiet, and it may not be quiet. Things may be happening but only slowly. That is where the discretion helps—if owners are given a fixed timescale, they know that if they do not have the property back in use by then, it will be back on the 200 per cent council tax.

The Convener: In such cases, is the advice for people to continue to keep in touch with the council, let it know what is going on and show evidence of what is happening?

Isobel Butt: Yes.

Kenneth Gibson (Cunninghame North) (SNP): Mr Mitchell talked about people sitting on properties for speculative reasons. I noticed that his written submission was the only one that suggested that there should be additional powers. He mentioned compulsory sale orders, which are already being considered, but he had some caveats with regard to the potential legal issues that might arise. How could compulsory sale orders work and what drawbacks might be involved?

Andrew Mitchell: Our experience is that, at one end of the scale, there is advice, guidance and support to landlords to help them to bring their properties back into use and, at the other end, the only option is a compulsory purchase order. The City of Edinburgh Council is considering that in a small number of cases but, given the cost and the legal risk, it is not a tool that can be deployed on a large scale. Between those two options there is nothing.

The council has said that it is interested in the idea of compulsory sale, but it would depend on how that looks when it comes out of Parliament. If it is a process that is as complicated and costly as compulsory purchase, it would be less attractive, but if it was smaller, slicker—for want of a better

description—and less onerous or financially risky to the council, we would certainly consider it. Until the detail is known, it is difficult to say more than that the council is interested and thinks that there is a gap between advice and support, and compulsory sale.

Kenneth Gibson: We have yet to see any prospective legislation on compulsory sale, but my understanding is that it is to be a fairly simple and straightforward matter of buying properties that nobody has done anything with for years and, in effect, putting them up for auction. I noticed that nobody else raised that issue. What do other members of the panel think about that policy tool: specifically, would it be useful for empty homes in your area?

Isobel Butt: I think that it would be useful. We do not tend to use CPOs for single dwellings—we have not done so up to now—but we are looking at using them for large, eyesore properties in town centres such as big hotels, for which I think there is a case for CPOs. Compulsory sale orders would definitely be good if they were quicker and simpler to use.

Kenneth Gibson: Yes, that is the key.

Maureen Flynn: I agree with those comments. Compulsory sale orders could be a useful tool, depending on how easy they are to apply.

Joan MacLellan: It would be good to have another option available, in addition to advice and information and CPOs. Any other options are always useful.

Sarah-Jane Laing: We have no issue with the use of compulsory sale orders. They are seen as being the last stop when all other interventions have failed. As long as they are workable for local authorities, they will surely be more effective than the CPO regime, which is not being used.

There are other, wider land reform measures that communities and local authorities can use. The provisions on neglected and abandoned properties offer opportunities for areas where there are empty properties. They enable the community to exercise its rights, even if the local authority does not want to do that. However, enforced sale as a backstop is something that we, as property owners, accept in extreme situations.

10:15

Alex Rowley (Mid Scotland and Fife) (Lab): I will go back briefly to the council tax. How successful has the councils' ability to levy the surcharge been? Has it increased the number of homes that come back into use?

Isobel Butt: Yes, it definitely has. We are seeing 70 properties per annum coming back into

use. Now, rather than our having to write out to empty home owners, they are phoning the council tax department to complain about the surcharge, and they are being put through directly to us. We are finding it much easier to engage with such home owners because they are contacting the council rather than our having to get in touch with them. If we get in touch with them, it is usually by letter, which they do not often reply to.

Alex Rowley: People have said that it seems to be a bit hit or miss, depending on the local authority. Does there need to be further guidance on the flexibility, or better guidance? We heard in one session that people who were trying to get their house fixed were coming up against other barriers and, to top it all off, they were then being told that they had to pay double council tax. We heard that that was delaying them because they did not have the funding that they needed to get the house back into a decent shape.

Who makes decisions on the flexibility? Is there a need for further guidance on that?

Joan MacLellan: I think that, because the guidance is just guidance, every local authority is interpreting it differently. I do not know whether it needs to be more explicit and say that there should be a certain amount of discretion, say for six months. I am not sure about that. However, there seem to be differences between each local authority.

Isobel Butt: When we introduced our surcharge, we did not initially have discretion, and we had lots of cases where people came to us and said, "I just can't afford to do this work." We put those cases to our revenues manager and he did a paper for the council. There might be a case for saying that, rather than being discretionary, the matter should be in the legislation.

Alex Rowley: Could we look at the paper that you mentioned?

Isobel Butt: Yes.

Alex Rowley: You mentioned that you have used some of the additional funding to support town centre housing development. What are other local authorities doing with the extra funding that is coming in? Is it being used to support getting more empty homes back into use?

Andrew Mitchell: As I explained earlier, the funding stream in Edinburgh is used mainly to supplement the funding for affordable homes, given that the council is trying to build thousands of new homes in order to deal with some of the housing issues in the city. It was a political decision by the council that the money that came in would be used to supplement and support that. In effect, it would be put to a positive use, rather than paying for existing council services.

The Convener: Basically, it is being used for the supply of affordable homes.

Andrew Mitchell: Yes.

Joan MacLellan: In Falkirk, it is being used to help to fund the empty homes officer.

Maureen Flynn: In South Lanarkshire, as you know, the scheme has been introduced only recently, and the impact on revenue streams is still to be assessed.

Isobel Butt: We also use it for salaries for empty homes staff.

Annabelle Ewing (Cowdenbeath) (SNP): Good morning, panel. Falkirk Council says in its written submission that it has used the compulsory purchase powers twice. Will the other councils that are represented on the panel give an indication of their use of those powers?

Andrew Mitchell: We took a report through committee at its request in January of this year. We identified four or five quite problematic properties that have been sitting boarded up because of antisocial behaviour and concern in the community. We have been challenged by councillors to see what more we can do. The option is compulsory purchase.

The downside is funding the compulsory purchase order. The advice that we are getting is that it could cost up to £20,000 to £30,000 per property. Although we might recoup that through an eventual sale, it is an up-front cost. We are working our way through some business cases in order to ask for financial permission to pursue compulsory purchase orders in some of the most problematic cases.

Annabelle Ewing: You say that you have been advised that the cost could be anything between £20,000 and £30,000. That is quite a wide margin of variation. What are the costs and how are they broken down?

Andrew Mitchell: The principal cost is raising the court action. I am not from our legal services but, as I understand it, the risk factor is in the court process being disputed and fought, and the more resistant to the compulsory purchase the person is, the higher the legal costs will be.

Maureen Flynn: Our main focus is on information, advice and support, and liaising with other departments in the council to see how we can bring the property back into use. We would consider a compulsory purchase order only in exceptional circumstances.

Annabelle Ewing: Have there been any recently?

Maureen Flynn: I am not aware of any, but I will come back to you on that.

Isobel Butt: We have had one, but not in the recent past.

Annabelle Ewing: There is obviously a feeling that the CPO route is not the first choice. Mr Gibson has aired the issue of the compulsory sale order powers that we hope to see. Short of that, in the interim, I presume that councils have other enforcement options available to them. Is that not the case? What about work notices or maintenance orders? Short of trying to tackle ownership through a CPO, there are other routes. To what extent, if any, do local authorities make use of their other powers?

Andrew Mitchell: My team in the council deals with those kinds of powers. I would describe them as powers to mitigate problems. If somebody is having water ingress because of an empty home above them or there is a safety problem, the council has powers to intervene. However, that does not often get us far forward in resolving the empty home. It is mainly a case of managing its effect as opposed to solving the long-term empty homes problem. I suspect that you will find the use of those powers to be patchy across Scotland. In intervening, the council is taking on a financial risk. If it enters the property and repairs it to solve the problem, unless it can find the owner and get them to pay the bill, it bears the cost. I am therefore not sure to what extent those powers are actively used across the country.

Annabelle Ewing: We will come on to talk about tracing ownership in a minute, as it is an interesting issue.

In referring to properties for which the council is actively looking at cost benefit analyses of CPOs, you talked about circumstances in which you anticipate that there could be a challenge to the CPO and the owner is not just going to lie down and give up the property. That suggests that you could seek to have repairs effected and the owner would have to pay up. What analysis do you do of that? There will be circumstances in which, if you feel that the risk of challenge to the CPO is such that there must be other things to be done and there is an identified owner, you can have the owner pay out so that the building does not become an eyesore. One can think of many of those across Scotland.

Andrew Mitchell: I take your point, but I do not think that there are powers to stop buildings being an eyesore. There are powers to stop them causing a nuisance to other residents or the wider community.

Annabelle Ewing: What about trees growing out of the windows and that kind of stuff?

Andrew Mitchell: Again, it could be argued that that is a nuisance or that it would make the property unsafe. I am not aware of any specific

power that would allow a council to require the owner to do something about the building if the windows are just boarded up and the property is looking unsightly. I would need to go back and check, but I think that we consider compulsory purchase only of properties for which we have exhausted all options for engaging with the owner and they are, for whatever reasons, unable or unwilling to move forward. The compulsory purchase order is the council's last option for finding a resolution.

Isobel Butt: The council has powers. Empty homes officers do not have any enforcement powers, but we speak to building standards and environmental health departments. The difficulty is that building standards officers are more concerned with public safety than with bringing the property back into use. If a building is dangerous, they are more concerned just to fence it off and keep the public away, or perhaps to remove some slates that have fallen off.

It also comes down to budgets: environmental health and building standards departments do not have budgets to carry out the work. Often, if there is no chance of getting the money back, we cannot put a charge on the titles, because that is too much of a risk. Unfortunately, departments do not have the money to do that.

Annabelle Ewing: Are there any further thoughts on that from Falkirk Council and South Lanarkshire Council?

Joan MacLellan: There is reluctance to use works notices—again, because of the costs. Falkirk Council does not have the budget to serve a notice, but then to have to undertake the work itself and be unable to get the money back from the owner. That is too risky.

Annabelle Ewing: Mr Mitchell raised the interesting question of cases in which the owner is not readily identifiable. In such circumstances, what steps are open to you to trace the identity of the owner?

Andrew Mitchell: That is difficult. After having exhausted the normal means—trying to trace owners on the land register, lettering the properties and asking neighbours and the police—we have a significant number of cases in which we do not know why the property is empty: we cannot find or contact the occupier or owner of the building. That is a challenge. People who are in hospital can sometimes be traced, but often they cannot. If there has been a death, we have to contact whoever has the estate, but there is no immediately obvious place to find that information. That is a barrier in some of our cases.

Annabelle Ewing: Are there examples in which you have found a solution to such conundrums?

Isobel Butt: We can use people-finding companies to try and trace owners. The Queen's and Lord Treasurer's Remembrancer is a useful point of contact in respect of properties when somebody has died without leaving a will.

Annabelle Ewing: When it comes to tracing ownership, are there any things that you feel would help local authorities? What improvements could help you in your task? Are there particular obstacles? You mentioned a person's being in hospital and that you might manage to trace them. I presume that a way of dealing with data protection issues might help local authorities.

Andrew Mitchell: Again, our examples are based on feedback, on the ground. We can join the dots and conclude that a person might be in hospital. We then ask questions of the relevant section, but there is no central register of who is in hospital at any one time. Fieldwork often gets us that information, but it is resource intensive.

Isobel Butt: There are also problems if the owner lives abroad: we have difficulty tracking people down even in southern Ireland. If the property is owned by a company or trust that is registered abroad, it is virtually impossible to get in contact with the owner.

10:30

The Convener: If, despite making all reasonable attempts to do so, you cannot get in contact with the owner, is there a limit to how long a property can lie empty before you can take action?

Andrew Mitchell: I think that the answer is no: that is the case for the City of Edinburgh Council. Where we are pursuing CPOs, we are doing so because of a property's impact on the community. I am sure that if I were to check the data, there would be a number of empty properties that are not causing any impact on the community, other than through loss of homes to the housing supply. They are probably just sitting there in abeyance. Absent any power to—

The Convener: Could the properties stand there until they fall down?

Andrew Mitchell: They pretty much can.

Andy Wightman (Lothian) (Green): Thank you very much for your written evidence—it has been very useful. I will ask about financial support. Councils provide assistance schemes, and the Government has also provided schemes. Do we need to improve financial incentives and support for owners to bring properties back into use? You have provided information in your submissions on your assistance schemes, so there is no need to go into the detail of those.

Andrew Mitchell: Our local experience is that, given the buoyancy of Edinburgh's housing market, providing public funding to homes that will be sold on is probably not relevant. I suspect that such support might be more an issue where the housing market is not as strong, and communities are feeling the impact of that.

Andy Wightman: I am not just talking about giving people money—there could be financial incentives, as well as grants and loans. For example, the council tax supplement could be set at 1,000 per cent and could kick in after 10 years.

Andrew Mitchell: Again, in Edinburgh any such income would probably be diverted to building affordable housing, given the pressure on the council. The other pressure that we face is, of course, short-term lets, and the loss of thousands of properties to that sector. Those areas are probably more likely to be given priority, rather than grants being given for empty homes. Empty homes are an important issue and we are not complacent about it, but the risks are not as high as the risks in respect of other issues.

Andy Wightman: What do other witnesses think? If an owner needs 10 grand or 20 grand to bring a home back into use, are you in a position to assist?

Isobel Butt: Yes, we are. We have also used the Government's interest-free empty homes loan fund, which we have exhausted. Our grants and loans are always used up; there is always demand in the pipeline, so we could use more.

Andy Wightman: You set an annual budget, which is always used up.

Isobel Butt: Yes.

Andy Wightman: Are you keeping the budget the same or are you intending to increase it?

Isobel Butt: If there are additional funds available, we sometimes get a top-up during the year, but the budget has been the same for a few years.

Andy Wightman: Does your assistance scheme provide only loans?

Isobel Butt: No—there are grants and loans. The Government empty homes loan fund provides interest-free loans, and we have our empty homes initiative grant, which is £15,000—

Andy Wightman: Are you finding those to be quite successful?

Isobel Butt: Yes. They have been very successful.

Maureen Flynn: Our focus in South Lanarkshire Council is on information and advice. We do not provide loans or grants, and if loans or grants are

available, we signpost individuals to them, but we do not provide a budget.

Andy Wightman: Has South Lanarkshire Council ever provided a scheme of assistance? Has that ever been contemplated?

Maureen Flynn: There is a scheme of assistance. I would need to get back to you with more information on that.

Joan MacLellan: Falkirk Council is in receipt of the empty homes loan fund, but we have really struggled to spend it. Owners are reluctant to give their properties up for five years for affordable housing. We are reviewing the fund. We have found that owners probably need a grant or loan in order to occupy a house rather than to make it available for affordable housing, so we are looking into that.

Andy Wightman: What about the landlords' point of view?

Sarah-Jane Laing: For SLE members, the rural empty property grant that existed some years ago was exactly like the new empty homes loan fund. I think that a person had to turn their property over to affordable housing for more than 10 years, which was really useful.

The old private sector housing grants and loans scheme, which included everything from a few hundred pounds to deal with specific problems, up to the rural empty property grant, was really useful. That allowed people to deal with the whole spectrum of reasons why properties were empty.

Again, the difficulty is that local authorities take different approaches. A person in Perth and Kinross might be able to access the empty homes loan fund, but that support might not be available in another local authority area. From the landowner's point of view, the challenge is inconsistency in the support that is available.

Andy Wightman: Was the rural fund that you mentioned a national fund?

Sarah-Jane Laing: It was definitely a national fund. It was from Communities Scotland, I think.

Andy Wightman: Was it ever evaluated?

Sarah-Jane Laing: I do not know whether an official evaluation was done: there might have been one. That fund was subsumed into new funds that are focused on new build; they seem to work much better for new build than for bringing properties back into use. The rural and islands housing funds do not seem quite to be hitting the spot when it comes to empty properties. I am not sure why.

Andy Wightman: Do we need to look again at funds that used to be available at national level,

which could assist in bringing homes back into use?

Sarah-Jane Laing: I think so. Targeted schemes to address real problems rather than broad schemes that can cover any kind of housing seem to work. We have properties across Scotland that were brought back into use as a result of those schemes and which still provide affordable housing 20-odd years later.

Andy Wightman: SLE says on page 2 of its submission that

“If a residential property is refurbished as a long term let VAT cannot be reclaimed”.

However, Falkirk Council said in its submission that there is a

“Her Majesty’s Revenue and Customs ... incentive where an owner of a property empty for 2 years or more can apply for a letter to prove the property has been empty. If a property has been empty for two years, any renovation or alteration works carried out by a VAT registered trader may be eligible for a reduced VAT rate of 5%. If the property has been empty for ten years, the works may benefit from zero-rated VAT”.

I am not quite sure whether the submissions are saying something different.

Sarah-Jane Laing: SLE and Falkirk Council are probably talking about the same thing. VAT treatments differ depending on where the property is on the spectrum of emptiness—if that makes sense. It appears to be that the longer a property is left empty, the more chance there is of HMRC taking a slightly different approach to VAT, which seems to be counterintuitive in respect of what we are trying to address. That seems to be the feedback on VAT from Scottish Land & Estates members.

Andy Wightman: Falkirk Council’s submission says that, if a property is empty for two years or more, there can be

“a reduced VAT rate of 5%.”

Such a reduction would be helpful.

Sarah-Jane Laing: It would be. However, if an owner will get nothing at six months or at nine months, they might leave the property empty for two years in order to trigger the 5 per cent VAT. That seems to us to be counterintuitive.

Andy Wightman: I understand that.

Isobel Butt: That is certainly the case with VAT. We give out letters that confirm how long properties have been empty, and which property owners provide to contractors and then just pay 5 per cent VAT on the invoices. They do not have to reclaim the VAT. However, we do not see many people holding their property for two years just so that they can get that. That VAT rate is normally

for long-term empty properties that are being brought back into use, which is very helpful.

Andy Wightman: Thanks.

We have data from National Records of Scotland and data from assessors on council tax liabilities, which councils hold. Last month, the Scottish empty homes partnership told us that it is embarking on a project to improve availability of data, particularly at a more detailed level, in order to know exactly where empty homes are, spatially. Do you know where all the empty homes in your council areas are, as opposed to just knowing the gross number?

Isobel Butt: Yes—Perth and Kinross Council knows where the empty homes are. We have addresses, and we can put them on a geographic information system and look at them. We have done that, but it has not been terribly helpful. It seems that all the settlements in our council area have empty properties and that they are spread across the rural area. No particular area showed up as being a particular problem.

I am not sure how accurate the information is. There are always property owners who do not want to admit to the council that their property is empty, because they would have to pay a 200 per cent levy. A property that is actually not occupied might be occupied according to council tax information. We cannot say that the information that we have is absolutely accurate.

Andy Wightman: Do you have any idea of how many people might be failing to disclose that a property is empty for fear of getting—

Isobel Butt: We have come across a small number, but I am sure that there are a lot more out there.

Andy Wightman: Are there any other issues around data?

Andrew Mitchell: For our most recent report, we were asked by elected members to conduct an exercise to look for hotspots by council ward. Our experience might be slightly different, in that the situation appears to be fairly consistent across all wards. There are slightly more such properties in the city centre, but generally there is no discernible pattern.

As my colleague Isobel Butt mentioned, we know that there are people who are being surcharged in that category, but there are also people who are not known to the council or assessor and have not declared, and who are—I hesitate to use the term—unknown unknowns. There will be a number of them. We have detected a small number of such people and, obviously, have surcharged them, but the extent to which authorities can actively look for empty homes in order to surcharge them is questionable.

Maureen Flynn: In South Lanarkshire, we know where the empty homes are. We have the addresses and we have analysed the information. There are no particular problem areas, except possibly some rural areas where there is a mismatch between supply and demand. The issues go wider than there being empty homes. The mismatch is due to changes in population and economic changes. There is a much wider structural problem of which empty homes are a feature. Other than that, understanding where the empty homes are did not throw up any particular areas.

Andy Wightman: The information might not throw up particular areas spatially, but it could allow you to make, or to attempt to make, contact with owners and find out whether there are patterns in the reasons why homes are empty. I presume that that would depend on how much resource you have to do that, through empty homes officers or another service.

Maureen Flynn: Yes, or through any other means.

Andy Wightman: This is just an anecdote, but 25 years ago there was an empty house on the outskirts of Edinburgh and we wrote to the landowner asking whether we could buy it to improve it. The owner said no, but today the house is still empty. As a matter of principle, is that right? Should people be allowed to leave a property empty for 25 years?

The Convener: You're not using the committee to put in a bid for it, are you?

Andy Wightman: No—I am not interested any more, except as a matter of principle.

Andrew Mitchell: That certainly matters, from my perspective. Tolerance of empty homes appears to be reducing: that property is probably one of those that are on the City of Edinburgh Council's problem hit list. Ten years ago, it would not have been on anybody's radar as a problem empty home, although it might have been a problem in terms of antisocial behaviour. My sense is that in the political environment that I work in now, that is less acceptable, and there is more willingness to use other powers, such as we spoke about earlier.

Sarah-Jane Laing: If that house could be part of an effective housing supply, there is no excuse for its being empty for that long.

Joan MacLellan: There should be no excuse for such a property being empty.

Andy Wightman: So, in principle, do you all agree that our goal should be to find means, whether through finance—fiscal incentives—enforcement or acquisition powers, to bring all

empty property into use, as a matter of public policy?

Sarah-Jane Laing: The only exception would be, as someone said earlier, properties in areas where there is a mismatch between housing need and housing supply. To bring a seven-bedroom or eight-bedroom property back into use when the demand is for one-bedroom and two-bedroom flats does not seem to be right, unless the property was converted. Conversion of some such properties is problematic, and planning permission for conversion of large houses has been turned down in some areas. That is the only situation in which bringing the property back into use in its current form might not be the best approach.

Andrew Mitchell: I say that that should definitely be the goal, subject to there being proper controls to protect people's rights. If we look at the range of powers that councils have, we see they all have checks and balances to make sure that they are used appropriately. Subject to that caveat, I see no reason why the asset of an empty home should continue just to sit there.

Andy Wightman: Andrew Mitchell said that there is potentially not so much of a problem in Edinburgh because the market is buoyant. However, you also said that you are focusing on empty homes that are identified by people who come to you and say that there is a problem. There are empty homes that are not a problem in one sense, but they are still a problem in the sense that they are out of the housing supply. Will it be the City of Edinburgh Council's intention to do as much as it can to bring every empty home back into use?

10:45

Andrew Mitchell: I cannot prejudge what the council will do once it sees the powers that are available, but it has given a commitment to look at them positively. Given the issue that we face in relation to short-term lets, the amount of properties that are—one way or another—being lost to the supply of affordable housing in Edinburgh is an acute concern. It is making what is already a challenging environment more difficult, so I cannot imagine why the council would not look at the powers positively.

The Convener: Why does Sarah-Jane Laing think that, proportionately, there are more empty homes and properties in rural areas?

Sarah-Jane Laing: Part of the reason relates to market failure. We have already mentioned that properties in rural areas might not meet modern demand in relation to size or location. Quality is a big issue. The Scottish house condition survey shows that the quality of some of Scotland's rural

properties is very poor, and some of them are sitting empty, awaiting renovation.

Another issue is the strange link to other pieces of legislation, including legislation on agricultural holdings and other bits and pieces. Sometimes, housing legislation does not fit with other stuff, which results in empty houses, but we are trying to address that issue with the Scottish Government and others. It is wrong to have farm cottages sitting empty, but, given that farmers and others might be reluctant to have people living in the middle of farming operations because of health and safety concerns or other issues, we can understand why properties might be empty. We need to look at how such properties meet housing needs, and how we support the farmer and the estate in making properties available.

There is no one reason for the level of empty properties in rural areas; there are many reasons, as someone said earlier. The issue in rural areas is further complicated because of the interplay with agricultural holdings legislation.

The Convener: How effective have loan funds and the Scottish Government's rural and islands housing funds been in tackling the problem of empty properties?

Sarah-Jane Laing: As I touched on earlier, the rural and islands housing funds have not quite hit the mark. There are obstacles to applying. It is very difficult for an individual to apply for a loan fund. The funds are probably more suited to large-scale development—although by “large scale”, I mean four or five new houses, which is not a massive scale—whereas rural empty property grants and some local authority grants were targeted at individual properties. Such grants worked better in tackling the problem of empty homes because they were provided on a property-by-property basis.

The Convener: Do you have any advice on how the funds could be made more applicable to single houses?

Sarah-Jane Laing: Changing the eligibility criteria for who can apply would help, but I appreciate that, as with access to any Government loan fund or other public funds, there needs to be a high barrier. However, restricting access to groups, companies and constituted bodies rather than making funds accessible to individuals is unlikely to hit some of the rural empty properties that we are talking about.

The Convener: Thank you for that.

Alexander Stewart: There has already been some discussion about the possible links to the housing strategy. Are your empty homes strategies sufficiently joined up with your wider housing strategies to ensure that housing need is

met? At the moment, there is disparity between what you want to do, what you have and what you can achieve.

Isobel Butt: We do not have a separate empty homes strategy; our empty homes strategy is embedded in the one local housing strategy, which is where our target for bringing back empty properties lies.

Alexander Stewart: Is that approach sufficiently robust? In other locations, there are two different strategies.

Isobel Butt: I think that our system works well for us.

Alexander Stewart: Maureen Flynn talked about the strategies being linked.

Maureen Flynn: As my colleague Isobel Butt said, our approach to empty homes is embedded in our local housing strategy, and we see that strategy as encompassing our overall approach to housing supply and demand and contributing to a balanced housing market. That is why we have taken that approach.

Alexander Stewart: Has there been some funding that has helped you to assess the situation in light of the strategy that you are trying to put together?

Maureen Flynn: I would say so, yes. I do not want to go back to the previous question, but we have not really talked about housing sustainability this morning. That is where having a wider focus is of benefit.

We have talked about a possible mismatch between supply and demand in rural communities. The approach that we take in our local housing strategy is to think about sustainability. How do we ensure the future sustainability of housing within those communities and make sure that that housing will be fit for purpose? Sometimes that can be about consolidation rather than about always wanting to bring every property into use. It might be that there is an oversupply in particular areas, or an oversupply of a particular type or size of home. We find it beneficial to link back to sustainability in the community and what will be best for its residents.

The Convener: I accept the point, but we are doing a piece of work on empty homes, which is why it has been our focus today.

Maureen Flynn: Of course.

Joan MacLellan: Falkirk has an empty homes plan that is embedded in our local housing strategy. We are reviewing that plan this year.

Empty homes are also in our housing supply target. We have a target for bringing empty homes back into use in our local housing strategy.

Alexander Stewart: Do you have enough resource to fund that in your budget, or do you bring in extra funds to make that happen?

Joan MacLellan: I will be honest; I am not sure.

Andrew Mitchell: Empty homes are embedded in our overall approach to housing supply and our housing strategy. It is one of a number of issues that the council is being challenged by. We are considering rent pressure zones and the impact of short-term lets. Empty homes are an important factor in our approach to dealing with mixed tenure and improving standards in blocks where there are owner-occupiers.

The available resources are stretched across all those fronts, and empty homes are competing against a range of good causes within a basket of issues. The council is trying to maximise the impact of its strategy and actions to improve the situation.

Alexander Stewart: You have all identified that having the dedicated support of a mechanism makes a massive difference and has already had a massive impact in your communities and councils. It is a no-brainer that investing in and supporting work on empty homes is making a big difference.

Isobel Butt: Yes.

Maureen Flynn: Yes.

Joan MacLellan: Yes.

Andrew Mitchell: Yes.

Alexander Stewart: We have already heard about what has been happening elsewhere in the UK to tackle some of the issues and develop good ways of making things happen. Would you say that such approaches and support have to be focused and financially viable if they are to develop effectively in your communities?

Isobel Butt: Yes.

Maureen Flynn: Yes.

Joan MacLellan: Yes.

Andrew Mitchell: Yes.

Sarah-Jane Laing: Yes.

Kenneth Gibson: The Scottish Land & Estates submission talks about taxation. Earlier, we touched on VAT, which is a reserved matter. The submission also talks about capital gains tax, which is also reserved. What change would you like to see in that regard?

Sarah-Jane Laing: I do not think that we are suggesting that there should be any change. We just outlined what the taxation considerations are for property owners who decide to leave their

property empty. There were no specific taxation changes that we thought could be made.

Kenneth Gibson: From what I read, there is a sense of frustration. That is why I asked that question. In your submission, you say:

“If ... the accommodation had been retained as a tied house or rented out as a holiday home it would have been eligible for agricultural or business relief.”

It seems as though you think that the same kind of consideration should be given to other properties.

Sarah-Jane Laing: Landowners are always frustrated by the taxation system. However, what we were trying to highlight there is the disparity of treatment between, for example—to go back to the issue of agricultural holdings—something that is a property on a farm and something that is a house. There are a number of cases in those circumstances in which judgments suggest that houses that are deemed to be part of the farm are treated differently from ones that are not.

Kenneth Gibson: Given those points, I am curious about why you do not want a change in the regime.

Sarah-Jane Laing: It is one of those really complicated issues—well, perhaps it is not so complicated. There might be changes that are advantageous in terms of bringing empty properties back into use but which would be disadvantageous in terms of a farm sale. We need to consider all the issues together. The empty homes aspect of the proposal could act as a taxation lever, but we then have to understand what the implications of that might be for properties that are part of farm and estate sales.

Kenneth Gibson: Do you think that the balance is right at the moment?

Sarah-Jane Laing: I think that it probably is, but we would have to do some modelling to see how many properties would fall within the residential element and how many would fall within the agricultural properties relief element.

For us, taxation is not about delivering social policy, and that is a frustration. I suppose that a wider frustration is that, for some time, we have been trying to get HMRC to think about taxation from a social policy and housing point of view. It seems ludicrous that you can get conditional inheritance tax exemptions for works of art but not for affordable housing, which is an asset that, arguably, is of greater public benefit than some of the works of art that are considered to be of national significance. We have raised the fact that we have taxation that seems to be treating different houses differently, and we suggest that that could be examined further.

Andrew Mitchell: I would make the observation that any changes to tax rules that would incentivise empty homes being brought back into use should involve their being used as a home. We have a separate concern about the tax system incentivising people to have short-term lets. We need to be careful that any change does not make that problem worse.

The Convener: I thank the panel for attending today's session, which has been useful. The next step in our inquiry will involve a trip to East Ayrshire to visit communities that have been impacted by empty homes, and, at the end of today's meeting, we will have a private discussion on the evidence that we have heard and on our next steps.

We will have a brief suspension to allow the witnesses to leave before our next item of business.

10:57

Meeting suspended.

11:00

On resuming—

Subordinate Legislation

Local Government Pension Scheme (Miscellaneous Amendments) (Scotland) Regulations 2019 (SSI 2019/161)

The Convener: Agenda item 5 is consideration of an instrument that is subject to negative procedure. I refer members to paper 3. The instrument's provisions will come into force unless the Parliament agrees to a motion to annul it. No motions to annul have been lodged.

The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 21 May 2019. It reported to the Parliament on two errors that are contained in the instrument, but welcomed

"the Government's undertaking to lay a further instrument to correct the errors timeously for these Regulations to come into force on 28 June 2019."

As members have no comments on the instrument, I invite the committee to agree that it does not wish to make any recommendations in relation to the instrument. Are we agreed?

Members indicated agreement.

The Convener: That ends the public part of the meeting.

11:01

Meeting continued in private until 11:33.

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