1. I have given further thought to some of the aspects raised in the communities committee.

**Whether measures should be on the face of the bill or not.**

2. We need something in the bill itself which will ensure that whatever measures are taken will be actionable. Guidance has not worked and in any case I understand that it has no legislative force. The Bill as currently written does not meet all the necessary contingencies. If there is some flexibility in adding to the bill easily and quickly or there is subordinate legislation, there needs to be a clause which ensures that any additions have the same force as if they were part of the Bill itself.

3. The matter is also very urgent. The damage already done to housing and to communities and the propensity for further damage means that we cannot wait for another bill or support any delay in this bill.

4. We also need to enable the existing part of the bill which increased fines to £20,000.

**Temporary Licences and party or holiday flats**

5. I am not sure how these would work since an HMO is defined as being the principal home of the tenants. People renting holiday flats or party flats have their permanent home elsewhere. The licence would therefore probably have to be for a temporary let.

6. I asked someone in Edinburgh who suffers from such lets. Her opinion was that there are two kinds of problems associated with party flats: one is the kind I described, where, during student vacations or between lets, a landlord of an HMO lets to far more people than permitted on his licence.

7. The other is where parents, who have bought flats for their student children, sub-let over the vacations. In both cases there is little management or overview and it seems probable that Council Tax payable during this period may not be collected. The numbers may be more restricted in the second category.

8. I have also been informed that some people outside Glasgow hire a flat in Glasgow specifically to hold a party. Glasgow has a policy in the City Plan 2 to deal with holiday lets, but I do not know if it is effective. In the case of parties the disruption to neighbours has already taken place before the local authority can take action.

**Civil versus Criminal courts.**

9. It appears that there are 3 possible ways of dealing with prosecutions:-
• **Criminal proceedings**
The expense is prohibitive unless the fiscal can routinely ask for a compensatory order to be made to the local authority as in the case of victim assaults. Advice would need to be taken on this. Glasgow HMO unit could be consulted on any problems of proof.

• **Civil courts**
This loses the punitive and reputational aspects of criminal proceedings.

A civil remedy would probably need to be created e.g. breach of a licence or serious or persistent breaches could be penalised by the licence being revoked. I am advised that this would probably need the creation of another civil remedy, but I have no expertise in this. If a landlord is fined in the civil court that discharges the offence, though it might be repeated or persistent. It would not be possible for a licensing court to take that offence into account when deciding whether to grant a licence. Nor could the Landlord Registration scheme take note of the offence, no matter how serious or how persistent.

I am still of the opinion that local authorities need to be awarded the fines from successful prosecutions, but would like to see the licensing courts able to take note of the offence. Most cases now taken to court are serious or for repeated or persistent offences. How can the record be kept and used effectively?

• **Environmental fisca ls**
Cases might be referred to a designated environmental fiscal. Although he/she deals with breaches of bye-laws they do look at wider issues, of which these cases might be examples. I do not know if there is such a fiscal in Glasgow, but this might be overcome or cases taken to a particular fiscal in the vicinity. We would still be anxious that the local authority should not be out of pocket and the punitive and reputational aspects of criminal proceedings would be retained.

**Internal alterations to tenements.**
11. Civil servants working on the Bill have told me that to do anything about this would interfere with people’s rights to do as they wish in their own home. This is not a tenable argument:-

• The kind of activities I outlined interfere drastically with the rights of others sharing the same building, for which there is currently no remedy.

• Already any such presumed “right” is restricted where category A and B buildings are concerned.

• The rights of the occupants of tenements are already restricted in principle by burdens in the deeds or in deeds of conditions outlining what may or may not be done by individuals to common parts, or
even windows which are usually the responsibility of an individual but must preserve a common appearance.

- The problems I outline (subdivisions of rooms and moving of water services) are recent developments so are not addressed in traditional deeds or conditions.
- Tenements or flatted dwellings cannot continue to provide reasonable housing unless account is taken of the interests of the buildings themselves and the inhabitants.

11. I ask that this matter of subdivision and the moving of kitchens and bathrooms, with consequent extension of plumbing and drainage across the premises, which has caused so many problems for neighbours, taken very seriously by the committee.

12. I also ask that some way be found to allow licensing boards to address this problem where it already exists, i.e. to be able to consider it in renewal applications.

13. It also should not be possible for local authorities to give “letters of comfort” in respect of such alterations, since this will perpetuate the problems for neighbours and deprive them of redress.

**Glasgow’s policy on HMOs.**

14. I attach this for the information of the committee. It should be noted that despite such a policy having been in force in the previous City Plan 1, HMOs continue to proliferate in Hillhead. Glasgow also states that HMOs should have direct access to a lit street, which implies that HMOs are not appropriate in the upper floors of tenements. (Most in Glasgow are in the upper floors of tenements.)

15. One problem is the ten year rule, whereby an unauthorised HMO acquires planning consent if it manages to escape detection or enforcement for ten years.

16. The other is that the council takes the view that as legislation and policies are not retrospective, letters of comfort are issued, regardless of whether the property had been operating legally or not. Consequently there is no remedy for the situation. Landlords and managing agents also apply for, and are granted, licences for an increased number of tenants.

17. In 1985, 23% of the housing in Hillhead was in HMO use, though the Reporter examining the local plan agreed that 10% would be reasonable.

18. In 2001 that percentage had risen to over 60%, despite policies limiting the presence and location of HMOs.

19. Such is the number, and such is the resulting harm, that no further HMOs will be granted planning consent in Hillhead and Woodlands.
While this new policy is welcome, it does nothing to redress the balance.

20. We would like to see some means of redressing the balance and look to the licensing system as one means of doing so. We think that there needs to be some measures in force which allow local authorities to be proactive in reducing the numbers in particular areas.

Jean Charsley
Hillhead Community Council
11 May 2010