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SWECO

Apartment Hotels and Serviced Apartments

Building Standards Guidance Note 11



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Introduction

Introduction

This note gives guidance to help interpret whether a building should be considered a serviced apartment or an apartment hotel.

Understanding this early in a developments planning is key, as it determines what process the proposal needs to go through to get Building Regulation permission.

- Serviced apartments (BSR Gateway process)
- Apartment Hotel (Choice of RBCA or LABC)

The note highlights legal opinion that has been expressed and Building Safety Act and Building Regulation matters that are relevant to identify variance between the two uses.

Ultimately the onus would be on the client to provide the information that would allow the determination to be made.

Guidance

Classification with the Building Safety Regulator

Since initially developing this Guidance Note, Sweco have seen several legal opinions that are consistent in their view on this matter.

Key to supporting any conclusion for a development is the question, has planning permission for Class C1 hotel use been given, with planning conditions requiring it to remain in that use? It should be evident that the building will be operated as a single hotel, with a reception, central booking system, check in and check out arrangements, housekeeping and linen services. On that basis, the occupiers would be considered hotel guests rather than residents.

The inclusion of kitchenettes in the rooms would not change the character of the development or take it outside the C1 use class. The co-working space, gym, café, lounge and event areas are similarly viewed as ancillary facilities supporting the hotel operation.

Interestingly, consideration has been given to the fact that some guests may stay for longer periods. Opinion has been expressed that the length of stay does not, in itself, change the position. Government guidance excludes hotels from the higher-risk building regime regardless of how long guests remain there. The main contention is that the occupiers continue to be hotel guests within a managed hotel operation, rather than residents.

It was also noted, planning permissions can also require a Hotel Management Plan, including arrangements for monitoring the length and frequency of guest stays. The point was made that this provides additional support for the position that the accommodation will operate as a hotel, rather than as residential accommodation.

In terms of the design, it should support the Planning Classification. The Building Safety Regulator typically classifies higher-risk buildings based on factors such as height, occupancy and use. For example, residential buildings over a certain height or with a certain number of dwellings might be considered higher risk.

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In this case the determination of the use may also involve consideration of the fire strategy of the proposal, is it stay put, phased or simultaneous evacuation? A building that is based on stay put is unlikely to be an apartment hotel and conversely a building that has a simultaneous evacuation strategy would not lend itself to a serviced apartment use.

An apartment hotel or serviced apartment could be classified as a higher-risk building if it meets the specific criteria laid out by the Building Safety Regulator, which often focuses on residential use. The fact that it has serviced apartment features does not inherently categorise it as higher risk; rather, the risk assessment would be based on the aforementioned factors and any additional ones deemed relevant by the regulatory framework.

Sweco can give a view based on information provided but for an authoritative classification it should be recommended that the client consults with the Building Safety Regulator directly or legal experts in the field of building safety and compliance.

Guidance

Criteria for determining whether a building is a higher-risk building during the occupation phase of the higher-risk regime

1) Buildings used entirely as hotels are excluded from the higher-risk regime. Hotels are buildings which provide overnight accommodation for customers who stay for the purpose of leisure or business and as upheld in the Mayflower Cambridge Ltd v Secretary of State for the Environment and Cambridge City Council : “The essence of a hotel is that it takes transient passengers.”

Apartment hotels would also typically be excluded.

2) Hostels which also provide overnight accommodation to customers for leisure or business are considered as a type of hotel. If a building is used entirely as a hostel, then it is not considered a higher-risk building. Hotels are excluded regardless of how long these buildings are occupied by individuals or groups of customers.

3) Serviced apartments do not fall within the meaning of a hotel and are considered a residential unit. If there was another residential unit within the building and the height or storey threshold was met then the entire building, including the short-term let property, would be considered a higher-risk building.

4) A short-term let (for example, a short-term rental property let online) is considered a residential unit. If there was another residential unit within the building and the height or storey threshold was met then the entire building, including the short-term let property, would be considered a higher-risk building.

It is imperative the design team proposing the end use of the building and/or facilities, continually consider these through the design, construction and occupation phases. This is to ensure that any alterations to occupation arrangements will not change the overall status of the building.

Background

Background

Apartment hotels and serviced apartments serve a market for people who are looking for comfortable, longer-term accommodation, providing a similar lifestyle and facilities of a home. This is often on a more affordable basis compared to a traditional hotel, usually in central hub locations.

Both apartment hotels and serviced apartments offer visitors more room than typical hotel accommodation. An apartment hotel is usually around 28m2 and often contains a lounge area and possibly kitchen facilities which avoids the feeling of being restricted to a bedroom. A serviced apartment is on average 55m2 but can be larger and has the same facilities as a self-contained apartment, including a kitchen.

Background

What are the key differences between an apartment hotel and a serviced apartment?

Visitors staying in an apartment hotel can often find a range of amenities under the same roof as their room, as with a hotel. These may include; restaurants, bars, pools and gyms and will also be fully serviced with a reception and concierge. The hotel style building can include a mix of both apartments and hotel rooms.

Serviced apartments are self-contained and typically do not offer any or limited hotel style facilities (this is not necessarily the case within the Private Rental Sector). They are used in the same manner as a self-contained apartment and can accommodate a larger number of people if required.

The London Plan 2021 provides the following definition for clarity:

Self-contained hotel accommodation (C1 Use Class) provides for short term occupancy, purchased at a nightly rate with no deposit against damages. This will usually include concierge, room service and include formal procedures for checking in and out. Planning conditions may limit the length of stay for occupiers.

It is generally accepted that the difference between a rented house and a serviced apartment comes down to the length of stay. The Greater London Council (General Powers) Act 1973 provides that the use of residential premises for temporary sleeping accommodation for less than 90 consecutive nights in London is a change of use, for which Planning permission is required as it will be deemed as a hotel use with a C1 use class. If in excess of 90 days, it falls within a residential use under a C3 use class.

Background

How do apartment hotels or serviced apartments differ from residential accommodation?

With residential private sector renting options, a contract is usually a condition of occupancy. The person renting is deemed a ‘tenant’ who pays rent, typically for a minimum term of 6 months under an Assured Shorthold Tenancy. Once the term expires the tenant will very often be able to remain on a rolling ‘periodic’ tenancy basis for an unlimited period of time. A tenant of residential accommodation will usually be required to take responsibility for paying council tax and utilities bills directly, paying for actual usage rather than an estimate. In contrast, with an apartment hotel or serviced apartment the hotel operator pays for all services except perhaps telephone usage if provided.

In residential accommodation, where applicable the tenant will often be required to pay directly for service charges and ground rent relating to the overall upkeep of the building and any grounds. The tenant therefore takes overall responsibility for the property. Furthermore, in direct contrast to an apartment hotel, no person is allowed to enter residential accommodation without prior agreement from the tenant. Therefore, a tenant of residential accommodation has rights that do not apply when staying in a hotel or apartment hotel.

Examples of services that are often provided in an apartment hotel or serviced apartment, but not residential accommodation are:

- Manager/concierge
- Internet access
- Cleaning/changing of laundry
- Welcome pack

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Key Considerations	Apartment Hotel	Serviced Apartment	Self-contained Apartment/flat
Has planning permission for Class C1 hotel use been given	☑	☒	☒
Are communal amenities provided, for example: restaurant, bars, pools, gyms, reception and concierge?	☑	☒ (Typically not but may have limited communal amenities)	☒ (Typically not but may have limited communal amenities)
Typical fire evacuation strategy?	Simultaneous evacuation	Stay put	Stay put
Is the building considered a higher-risk building during occupation if greater than 7 storeys, contains 2 or more residential units and taller than 18m?	☒ (If used exclusively as a hotel and likewise for hostels)	☑	☑

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