

NOTTINGHAM ACTION GROUP ON HMOs

c/o St. Mary's Church Hall
Wollaton Hall Drive
Wollaton Park
NOTTINGHAM NG8 1AF
Tel: 07762-525-625
E-Mail: contact@nottinghamaction.org.uk

7 July, 2010

Minister of State for Housing
Department for Communities & Local Government
Planning & Development Management
1/J2 Eland House
Bressenden Place
LONDON SW1E 5DU

Dear Minister

HMOs & PROPOSED AMENDMENTS TO PLANNING LEGISLATION

First, I would like to thank Ms. Donohue for her response of the 29 June to my e-mail to you of 17 June.

The Nottingham Action Group on HMOs (NAG) submitted a response last July to the CLG's full and open consultation on 'Houses in multiple occupation and possible planning responses'. (I believe you were sent the supplement to the NAG's magazine which was entirely based on that response.) In turn, the consultation was the culmination of a comprehensive and detailed process of research, information gathering and discussions to which the NAG had regularly contributed.

Although the NAG has not been asked to participate directly in the rather limited consultation under way at the moment, I hope you will forgive me if I, on behalf of the NAG, use this opportunity to make some comments on the points made by Ms. Donohue.

Local & National Concerns about HMOs

I begin my comments by saying that the members of the NAG welcome the reassurance that the new Coalition Government shares our concerns about the impact that the unplanned development of HMOs continues to have on neighbourhoods in Nottingham. We are also reassured that far from being alone, our concerns are shared by residents, elected Members, council officers and MPs in a large number of other, diverse towns and cities across this country.

Burden on Landlords and Local Planning Authorities

In my message to you, I acknowledged that the current legislation is not ideal. However, I am disappointed that, by saying that [the rules] *'are imposing a burden on landlords and local planning authorities...'*, you appear to have misunderstood my reasons for saying so.

The NAG membership does not believe that the legislation that came into effect on 6 April in any way imposes an unnecessary burden on landlords in particular, or indeed on LPAs in those places where, at this moment in time, HMOs are not seen to be causing problems.

With respect to the assertion that the present legislation imposes a burden on landlords (and the implicit assumption that this will have adverse effects on the private rented sector and the supply of HMOs), in fact, as the conclusions of last year's consultation have clearly stated, the *additional cost* [of having to obtain planning permission] *is relatively low when compared to the potential rental income (landlords could expect to receive anywhere between £800 and £3,200 per month for a 4 bed property depending on location)*. The conclusion was also reached that *as such* [the requirement to obtain planning permission] *is unlikely to result in a significant number of landlords choosing not to enter the HMO market*.

In Nottingham a rough and ready survey of HMO rentals (as displayed on landlord and agent websites) shows that landlords who have bought three to four bed houses and have converted them into five to eight bed HMOs are commanding rentals of between £75 and £88 pppw, i.e. between £1,613 and £3,050 per month. These rentals (which are not untypical) certainly show that the initial costs a landlord may incur in obtaining planning permission can be very quickly recouped once the C3 to C4 conversion has taken place.

Also, I would suggest that if a landlord is deterred from entering (or remaining in) the HMO market by the cost or complexity of applying for planning permission, then that landlord is unlikely to be professional enough or have enough funding available to maintain the property to an acceptable standard and provide the tenants with good quality, safe and secure accommodation. So, discouraging this sort of landlord from entering (or remaining) in the private rented sector is an incidental, but very useful, bonus of the present planning requirements.

I have to say that the Group is somewhat surprised that to date no-one appears to have provided the data upon which the statement that the present legislation would generate some 8,500 planning applications a year is based. Without access to that data, it is difficult to ascertain the veracity of the argument and, therefore, of the belief that this increase in planning applications would put unacceptable burdens on LPAs in general. In any case, under the present legislation, the fees generated by these applications contribute towards the costs of processing them, therefore proving to be less of a burden than the proposed amendments which, if I understand them correctly, would mean that there would be no fees payable in areas where Article 4 Directions on HMOs are in place.

This seems to be an unfortunate and perverse imposition of an unnecessary burden on the substantial number of authorities in this country, of which Nottingham is clearly one, that have problems with HMOs. Also, in the context of what is said later in this letter about the flexibility of the HMO market, it seems that the ramifications of the proposed amendments could well discourage an LPA, which in due course may well discover that it has a problem with HMOs, from taking timely and effective action to deal with that problem. From the experience we have had in Nottingham, the inability to do so has resulted in extra burdens upon the City in terms of the time, money and human resources needed to tackle problems like waste management, noise pollution, antisocial behaviour, etc. associated with concentrations of HMOs.

HMOs as a Source of Low Cost Accommodation

I also note the much used reference to the important function of HMOs as a source of low cost accommodation. I would argue that this is a somewhat simplistic analysis of HMOs which does not take into account their costs to the LA and to the social and environmental capital of the neighbourhoods in which the aggregate.

First, as a rule (at least in Nottingham and I suspect in most other places) HMOs come about as a result of the conversion of family homes (C3). This has resulted in the loss of an important part of Nottingham's family housing market: larger, three and more bed properties with gardens, garages, etc. This in turn has had serious implications for the City's ability to keep families within its boundaries, let alone its ability to encourage new families to live within those boundaries.

Second, as the figures quoted earlier indicate, many HMOs in Nottingham (and no doubt elsewhere), particularly those rented out to students and so-called young professionals, in fact command noticeably high rents which then exclude other socio-economic and demographic groups from living in areas popular with students and young professionals. This, in turn, contributes to the homogenisation of neighbourhoods, a process that has been labelled by landlords and students' unions as 'ghettoisation'.

Third, a direct consequence of the ability of HMOs to command very substantial rentals is the detrimental impact that this has on the provision of affordable homes for families who either need to rent because of financial constraints, or want the flexibility that renting gives.

Landlords can and do get much higher returns from renting a property as an HMO, (say, six tenants renting a four bed 'family-type' home) than they can from a family (two adults and two children of school age) renting the same property. The end-product is that families are priced out of the rental market in neighbourhoods like ours. And, again, the neighbourhoods themselves become dominated by specialised highly transient socio-economic and demographic groups.

The most palpable loss is that of those people who, under normal circumstances, would indeed be the ones take on board the principles and responsibilities of the 'Big Society'

Fourth, because of buy-to-let mortgages and loans that benefit landlords, coupled to high rental income, families and others who wish to buy are priced out of the market and their choice of location, style of property, etc. are seriously compromised. This appears to run contrary to your own statement to the RICS on 8 June, when you affirmed that aspiration '*is something that is at the heart and soul of this Government*', and that you believe that home ownership is a '*very good thing*'.

These are indeed very laudable principles and ones that by far and away the majority of NAG members support as things that not only they have aspired to, but which their children should be given a realistic opportunity to achieve. Therefore, it is unfortunate to say the least that I now find myself having to write in this manner on behalf of the members of the Nottingham Action Group, to some-one who clearly sympathises with the many people for whom shelter and security means owning the roof over your own head. In our neighbourhoods that aspiration is all but still-born.

Ability of People to Respond to Circumstances in Their Area

I also want to respond to that part of Ms. Donohue's letter that speaks of the need for the planning system to allow people to respond to the circumstances in their area, and the assertion that the proposed amendments will enable local action to be taken to deal with HMOs in areas where they cause problems.

One of the issues consistently raised at the regular open meetings the NAG has arranged over the six years since it was formally constituted (and prior to that at other community/resident open meetings) has been the inability of our elected Members and council officers, and so of the residents themselves, to respond to the problems associated with HMOs, especially rapidly increasing concentrations, together with genuine concerns that their uncontrolled spread and build up in new neighbourhoods will result in the same problems being experienced by yet more groups of residents.

Along with trying to deal with the year-on-year environmental and social impact on our neighbourhoods of HMOs, their absentee or uncaring landlords and agents, and their peripatetic and highly transient populations, the most frustrating aspect of our work has been the inability of the NAG's membership to respond in a strategic manner to the problems. This has not been because of a lack of will but, as I have said above, because the legislative toolkit was not available until now. That is why the NAG and its membership campaigned for a change to the Use Class Order, supported Option 2 of last year's consultation, and why the decision announced in January of this year was particularly welcome, if long overdue.

The Use of Article 4 Directions to Manage HMOs

So, we are glad to note that the Coalition Government, in retaining the C3 and C4 Use Classes, like its predecessor continues to recognise that HMOs constitute a different land use from others in that category. However, the proposal to make a change from C3 to C4 permitted development (in line with Option 3 of last year's CLG consultation) is seen by us as a retrograde and regrettable step. Indeed, it is worrying that in repeating this proposal a year later, there continues to be a failure to recognise fully the nature of HMOs and of the problems associated with:

(a) An HMO housing market that is characterised by a high degree of fluidity on the part of landlords and agents as well as tenants, and also by the rapidity with which it can take advantage of changing circumstances;

(b) The need to be able to prevent concentrations of HMOs from building up in neighbourhoods where they are at present limited in number, as well as being able to manage further increases in concentrations in neighbourhoods where HMOs are already dominant.

With these two points very much in mind, and with the hard-won experience that we have gained over the years, it is evident to us at least that to achieve any significant success in dealing with a problem that is so clearly characterised by its ability to respond flexibly and rapidly to what can be very localised market forces, needs a solution that has the potential to be as adaptable and speedy in its response. This led to our conclusion last year that Article 4 Directions could not provide our elected Members and their officers with the best tools to do what is a difficult and complex job.

That is not to say that Article 4 Directions do have a role to play. Indeed in the NAG's response to last year's consultation, it was pointed out that Article 4 Directions, when used in conjunction with a change in the Use Classes Order, could be used to manage the conversion in existing HMOs of garages, attics and basements which increase occupancy levels and, therefore, exacerbate the problems associated with them.

However, today and despite the removal of one of our original objections (the need to get approval for an Article 4 Direction from the Secretary of State), and even with the promised (but unspecified) amendment to the compensation provisions, which would remove another of our objections, we are still of the same mind as we were last year. By their very nature Article 4 Directions are not suitable instruments for dealing with the strategic problems associated with managing the concentration and spread of HMOs.

All in all, the only conclusion that can be reached by this group is that at best the proposed amendments will curtail the ability of our elected Members and their officers to react quickly, positively and effectively to the challenges posed by the HMO market. At worst, and especially in these times of fiscal frugality, they will remove that ability altogether.

Local Strategies and the Present Timescale

The NAG has always recognised that national legislation of the type that came into effect on 6 April can only provide the framework upon which local policies can be shaped. As a group we worked with our LPA to develop the Building Balanced Communities Supplementary Planning Document referred to in our response to last year's consultation. More recently, we have been helping to develop new local planning strategies which, by utilising the new legislation, will provide non-proscriptive and adaptable ways in which to accommodate the needs of all parties with an interest in this section of the housing market.

To say the least, it seems a pity that the apparently unseemly haste to amend this particular piece of planning legislation, means that we have not been given the opportunity to complete those strategies, apply them, and then judge how successful they are.

Final Comment

These comments are not made lightly, or as a knee-jerk reaction to suddenly changing circumstances. They do not come from people who have expertise in planning matters or who have sufficient funding to be able to employ some-one with that expertise. That having been said, I very much hope you feel they contribute something useful to the discussion, and that they will be taken into account in the deliberations which will no doubt follow after the end of the consultation period and before any final conclusions are reached and amendments made.

Yours sincerely

A handwritten signature in purple ink that reads "Maya R.J. Fletcher". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Maya R.J. Fletcher
On Behalf of the Nottingham Action Group on HMOs