

NEIGHBOURHOODS WHERE FAMILIES WANT TO LIVE ... NOT LEAVE

Response of the NOTTINGHAM ACTION GROUP ON HMOs

to the Communities and Local Government Consultation on: Houses in Multiple Occupation and Possible Planning Responses

'Sustainable communities are places where people want to live and work, now and in the future. They meet the diverse needs of existing and future residents, are sensitive to their environment, and contribute to a high quality of life. They are safe and inclusive, well planned, built and run, and offer equality of opportunity and good services for all.'

[Website of the Office of the Deputy Prime Minister, April 2005]

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INTRODUCTORY COMMENTS

NOTE: Copies of the following documents can be downloaded from the CD accompanying this response.

- *The Housing Strategy for Nottingham City, 2008-11*
- *Monitoring of Student Households, a report of the Director of Planning and Transport to Nottingham City Council's Development Control Committee, 22 April 2009)*
- **Nottingham City Council's Building Balanced Communities Supplementary Planning Document**
- **Nottingham City Council's Student Housing Action Plan**
- **Back issues of the magazine of the Nottingham Action Group on HMOs (2005-2009)**

The Nottingham Action Group on HMOs (NAG) was formally constituted in February 2004 with the stated object: ●To protect, preserve and seek to improve the environment, facilities, balance and sustainability of neighbourhoods affected by multiple occupancy accommodation; ●To represent and promote the interests of residents of these neighbourhoods; ●To support and encourage neighbourhood co-operation and safety. Its membership is drawn largely from residents in neighbourhoods in Areas 4, 7 and 8¹ of the City as well as from parts of the town of Beeston (Broxtowe District Council)². It is within these areas that large concentrations of HMOs exist and where they make the greatest impact on local neighbourhoods.

This response is drawn from information passed on to the Group by its membership and other interested parties.

On Page 72 of *The Housing Strategy for Nottingham City, 2008-2011*³, it is stated that 9.2% of private rented sector dwellings are HMOs, approximately three times the national rate and that they are mainly located in Areas 4 and 8 of the city. The document goes on to say that three HMO Action Zones were set up in the city in July 2007 in order to concentrate the city's HMO activities (licensing and enforcement action under the terms of the Housing Act 2004) in those parts of the city with high numbers of HMOs. Two of the three zones are areas with large numbers of student-occupied HMOs and are located in the Arboretum (Area 4) and the Lenton Drives (Area 8). The third area is in Sneinton where the HMOs are mostly occupied by migrant workers and asylum seekers.

Nottingham's student population has increased by almost 23% since the last Census and is currently in the region of 50,000. '*Monitoring of Student Households*' – a report of the Director of Planning and Transport to Nottingham City Council's Development Control Committee on 22 April 2009 – highlights trends in student households in specific parts of the City. By using Council Tax data collected in October, 2008, the report concludes that student households form 41% of the total in Dunkirk, while in Lenton they form 39.5% of all households. There are similar concentrations in other parts of the City.

However, it has to be said that this report, though providing some definitive information about student households, does not represent accurately the full extent of student HMOs in Nottingham. It does not pick up concentrations of student HMOs in other wards, for example in Wollaton East & Lenton Abbey (Area 7) and in Radford & Park (Area 4). Neither does it attempt to examine the way in which the numbers of student HMOs have increased in specific neighbourhoods or indeed the overall geographic spread of these HMOs.

¹ Area 4 wards are Arboretum, Berridge, Radford & Park; Area 7 wards are Wollaton West, Wollaton East & Lenton Abbey; Area 8 wards are Dunkirk & Lenton and Bridge.

² Many of the members of the Nottingham Action Group are also active in their local resident and community associations.

³ Nottingham City Council 2008

It is no coincidence that the membership of the Nottingham Action Group is drawn from these areas. Neither is it a coincidence that these areas are in close proximity to Nottingham's two universities. Indeed, this highlights the close correlation between student numbers and the demand for HMOs⁴.

However, it is acknowledged that elsewhere it is other groups that provide the impetus for concentrations of HMOs.

A final point that needs to be made concerns the different types of property that have been converted into HMOs. There is a perception that HMOs are by and large terraced houses and large Victorian or Edwardian properties located in problematic and deprived inner city areas. However, this is not particularly the case in Nottingham where the type of housing converted to HMOs includes:

- 'traditional' inner-city terraced housing (e.g. the so-called Lenton Triangle in Radford & Park Ward), to Victorian and Edwardian properties in some of the City's most attractive locations, many of which are also conservation areas, e.g. The Park (Area 4);
- through to inter-war (1920-1940) detached and semi-detached family houses and bungalows of varying sizes, e.g. the Lenton Drives, Wollaton Park and the Wollaton Park Estate (Areas 7 and 8);
- and finally, modern (post-1970) developments of detached and semi-detached houses, e.g. the Lenton Gardens Estate (Area 8), the 'Lenton Village' Estate (Area 4);
- along with modern (again post-1970) maisonette and town house developments, e.g. the 'Berrymede Estate' in the centre of Nottingham (Area 6) and the Lenton Manor Estate (Area 8).

NOTE: Since the formation of the Nottingham Action Group, there have been a number of developments of family-type housing which have in fact become HMOs immediately following construction.

The differences in the types of housing reflect the diversity of the neighbourhoods in which concentrations of HMOs are causing problems: everything from inner city areas to suburban locations⁵.

CONSULTATION QUESTIONS

Q1. Do you experience problems/effects which you attribute to high concentrations of HMOs? The simple answer is 'Yes'.

The NAG was formed in response to the experiences of residents of neighbourhoods with large numbers of HMOs. It would not still be in existence if those problems did not still also exist.

These problems include

- anti-social behaviour including noise nuisance, 'respect' for neighbours, etc.
- environmental problems, e.g. waste management, property maintenance, infrastructure, etc.
- community problems, including stability and diversity, amenities, crime, imbalanced housing market, etc.

Further information about the problems and their impact on neighbourhoods in Nottingham is given in Appendix 1.

Nottingham City Council, Nottingham's two universities (University of Nottingham and Nottingham Trent University), their respective students unions and the students themselves⁶, along with Nottinghamshire Police and Fire Services have all acknowledged the difficulties that have arisen as the concentrations of HMOs have increased, especially in those neighbourhoods already referred to in the above section.

⁴ See the map on p.2 of the Nottingham Action Group magazine, Summer-Autumn 2006.

⁵ See the Nottingham Action Group magazine, Summer -Autumn 2006 and Spring 2008 (Ministerial Tour Supplement).

⁶ See 'Are We Losing Lenton' article in *Impact*, the magazine of the University of Nottingham Students Union:
<http://www.impactnottingham.com/2009/06/are-we-losing-lenton/>

Q2. Do you consider the current planning framework to be a barrier to effective management of HMOs by local planning authorities? Again, the simple answer has to be 'Yes'.

As far as the Nottingham Action Group is aware, although the LPA (Nottingham City Council) has sought to introduce policies to sustain neighbourhood balance⁷, it has not been successful in resisting increasing numbers of HMOs and/or increasing occupancy of HMOs in those streets where HMOs concentrations are either already having a detrimental impact on the amenity of the neighbourhood (i.e. have exceeded the 'tipping point'), or where it is clear that they are beginning to have an impact.

This is not to say that the City has not tried to use what powers it has to limit the concentration, spread and the effects of HMOs. Many examples exist, but for brevity, only one is cited.

EXAMPLE

349 Derby Road, Lenton (located in an area where the 2001 Census showed that between 30 and 45% of residents were students). The property was formerly a small, family-run hotel known as 'Lucieville'. The owner lived on the premises alongside his guests and was an active member of the community. After its sale, a planning application (03/01043/PFUL3)⁸ was made by the new owner, Dr. A.M. Choudhuri of Peterborough, seeking permission to convert the hotel into two residential dwellings. Planning permission was granted subject to the condition that '*... the premises shall not be used other than for the purpose defined in Class C3(a) "by a single person or by people living together as a family"...*' This condition was to ensure that the development did not prejudice the amenity of the adjacent properties and was in line with the Council's policies ST1 on Sustainable Communities and H3 on Appropriate Housing Types which were intended to address the shortage of family dwellings for owner-occupation in Nottingham identified in the Nottingham Local Plan Review Revised Deposit Draft. During conversion of the property, Dr. Choudhuri appealed against the condition imposed by the Council. Subsequently, and prior to a Planning Inspectorate hearing taking place, the premises were rented out to two sets of young people (7 in one property and 8 in the other).

The Inspector upheld the appeal, thereby allowing the properties created by the conversion to be used as HMOs and undermining the LPAs attempt to use the current planning framework to effectively manage the HMOs in the neighbourhood involved.

Furthermore, we would draw your attention to the comment made by the Inspector in his decision: '*The proposed development, as approved by the Council, would provide 2 good sized dwellings, one with 5 bedrooms and the other with 4 bedrooms, with each dwelling having a reasonable area of private rear garden. They would represent a small but valuable addition to the number of larger houses in the area and their size and type would make them suitable for family accommodation, as sought by LPR Policies ST1 and H6. ...*'

Here, the Inspector acknowledged that the conversion of the hotel into two good-sized dwellings had the potential to support the aims of the LPR's policies ST1 and H6. However, in common with what has happened at other Inspectorate hearings in Nottingham, in this one the Inspector failed to appreciate the fundamental difference between an HMO and the way in which its occupancy is structured (un-related persons living separate lives, though sharing some facilities) and that of a single (family) household. Paradoxically, the result has been that the present land use of 349 Derby Road in actuality is much closer to that of the hotel it originally was than to that of the family homes the Inspector acknowledged the development could provide.

It also needs to be pointed out that since the Inspectorate hearing, two more family homes in the immediate neighbourhood have been sold and converted into HMOs, thereby increasing yet further the imbalance of that neighbourhood.

⁷ Nottingham City Council *Building Balanced Communities* Supplementary Planning Document

⁸ For full details of this application see the Nottingham City Council's website:

<http://plan4.nottinghamcity.gov.uk/WAM/pas/findCaseFile.do?appNumber=03%2F01043%2FPFUL3&action=Search>

The conclusion has to be that planning legislation, far from helping the Council to effectively manage HMOs, has indeed contributed substantially to its inability to manage them.

Q.3. Could promotion of best practice measures as opposed to changes in the planning framework sufficiently deal with the problems associated with HMOs, in particular those problems often associated with high concentrations of HMOs with student occupants? The answer has to be 'No'.

Nottingham has been acknowledged to be at the forefront of developing strategies and actions to deal with the problems associated with HMOs and student HMOs in particular. Nottingham City Council has a Student Strategy Manager, the University of Nottingham has an off Campus Student Affairs Manager and Nottingham Trent University also has staff with responsibility for off campus student affairs. The University of Nottingham's students union has a Community Officer and the Welfare Officer for Nottingham Trent University's students union also has responsibility for community affairs. Both students unions take part in disseminating information to students, e.g. the Sshh Campaign. Nottingham has a Student Housing Action Plan⁹ which reflects the work of the Student Strategy Leadership Group (chaired by a senior Council officer) and acts as a template for the work of the Student Co-ordination and Delivery Group (chaired by the Student Strategy Manager). The Nottingham Action Group holds regular meetings that aim to provide a means by which all the agencies and residents can exchange information and experiences, and develop good practice.

The strategies and their resultant actions have had varying degrees of success in dealing with predominantly environmental problems, such as waste management, litter, rubbish, associated with HMOs.

For example, there has been an improvement in the physical environment of the Lenton Drives neighbourhood, the location of one of the Council's pilot HMO Action Zones. However, the improvements have come about because of the amount of resources that the Council has been prepared to focus in that neighbourhood. Even now, at the end of the two-year pilot, the future maintenance of these improvements is still highly dependent on a continuing effort on the part of various sections of the Council. Elsewhere, improvements have been sporadic and patchy.

Unfortunately, many of the other environmental and social problems caused by HMOs have not been so successfully addressed, e.g. noise, anti-social behaviour. In any case, all actions have to be repeated year on year as last year's tenants move on and this year's tenants move in – the 'groundhog day effect'. This leaves residents frustrated and unhappy and dreading the beginning of the next university session.

An office of Unipol Student Homes has been established in Nottingham, with strong support from the two students unions, the Nottingham Action Group and Nottingham City Council. (In fact the major part of the set-up funding was provided by Nottingham City Council.) One of the first actions undertaken by Unipol Nottingham was to devise the Unipol-DASH Code for accreditation of student accommodation in the City and in Greater Nottingham. However, accreditation is voluntary and at this time it seems reasonable to assume that it will be some considerable time before the benefits become obvious. Also there are neighbourhoods (especially those close to the universities, such as Lenton, Dunkirk and the Arboretum) where landlords and agents who are not signed up to the Unipol DASH Code will be able to continue to charge high rents whilst providing poor facilities and low standards of maintenance of the interior, exterior and curtilage of the properties involved.

It must be added that in Nottingham there is also a non-student HMO population. Preliminary information that the NAG has received seems to indicate that whilst, for example, the work done in HMO Action Zones has been effective in neighbourhoods like the Lenton Drives with large numbers of student tenants, it have been less effective in areas where the predominant HMO population is migrant workers and asylum seekers, for example Sneinton Hermitage. In addition, there is also a so-called 'young professional' market in HMO accommodation which create similar problems to student-occupied HMOs, but do not benefit from the voluntary best practice schemes that the universities and their student unions are able

⁹ Nottingham City Council *Students & Balanced Communities*, May 2006

to promote. This in itself calls into doubt how useful 'best practice' can be in dealing with all types of HMOs and a wide range of occupants.

At a strategic level, Nottingham's *Building Balanced Communities SPD* '... encourages the provision of purpose built and managed student accommodation in appropriate locations'. Substantial amounts of purpose built accommodation have already been constructed or are under construction at the moment. So far, however, this provision seems to have made little impact on the overall demand for student HMOs, and thus on dealing with the problems associated with them and concentrations of them.

This is borne out by the data used to prepare the Report on 'Monitoring of Student Households' by the Director of Planning and Transport which was presented to the City Council's Development Control Committee on 22 April, 2009¹⁰. Monitoring has been confined to five so-called 'student areas' in order to enable effects caused by halls of residence and purpose built accommodation to be filtered out. Use of Council Tax data shows that there has been an overall increase in student HMOs of around 9%. In the Arboretum (adjacent to Nottingham Trent University) and in Lenton (adjacent to the University of Nottingham) the actual number of student HMOs has increased by 70 and 105 properties respectively over a one-year period.

The Report's summary of findings states: *The number of student Council tax exemptions increased across the monitoring areas between 2007 and 2008. A contributory factor to this is that the number of full-time students rose by several hundred more than the number of new purpose-built bed spaces which were provided. This illustrates the problem that, although the City Council's policy of moving students towards purpose built accommodation can be seen as having been working well, unless the new bed spaces provided each year exceed the increase in student numbers it is unlikely to ever be entirely successful.*

It also has to be said that the 'best practice' that has been adopted in Nottingham has not addressed the underlying problems caused by concentrations of HMOs such as the breakdown of community, the physical and social degradation of entire neighbourhoods, let alone the inappropriate usage of a scarce resource (good-sized, good quality family homes).

In conclusion, 'best practice' needs to be allied to good planning and housing policies and the means to enforce them if the problems associated with HMOs, and particularly in neighbourhoods with large numbers of HMOs, are to be tackled successfully and permanently.

Q.4. If planning legislation is seen as a barrier to the effective management of HMOs in an area how should planning legislation be amended – along the lines of option 2 (introduce a definition along the lines of the Housing Act 2004) or option 3? The answer to this question is Yes.

The Nottingham Action Group believes that there is a fundamental difference in land use between a dwelling house used as a *family-type* home and an HMO. This is illustrated by the example of the former hotel at 349 Derby Road (UCO change from C1 to C3).

As a hotel, the property had eight bedrooms and was the owner's home as well as providing accommodation for between seven and 14 guests.

The planning application submitted by Dr. Choudhuri stated that the conversion from hotel to two dwelling houses would create nine bed spaces. In family homes in this neighbourhood that would normally mean a maximum of 11 (typically four home-owners and seven dependent relatives). The actual situation is that the property now consists of two HMOs (under the terms of the Housing Act 2004) with a total of 15 un-related tenants, sharing the same frontage and rear garden space.

To all intents and purposes, the intensity of occupation of the HMOs is identical to that of the hotel (when fully occupied) which they replaced.

Furthermore, the social structure of the occupants of the two HMOs is quite unlike that of either the hotel they replaced (where the owner took responsibility for the day-to-day management of waste, cleaning, etc.), or of family homes (where the social structure places

¹⁰ *Monitoring of Student Households*, published report of the Director of Planning and Transport to Nottingham City Council's Development Control Committee, 22 April 2009

responsibility for the day-to-day running of the property on specified adults with a long-term interest in the ownership or tenancy, often a parent or parents).

The guests of the hotel were more transient than the occupants of the two HMOs. Nevertheless, the occupiers of the two HMOs have regularly changed every academic year, a much higher transience than is usually encountered in family homes.

The 'Lucieville' example illustrates why the Nottingham Action Group contends that there is more than ample evidence that HMOs are a distinct and different type of land use from family houses (Class C3).

This, then clears the way to a discussion of why and how planning legislation should be amended.

It is evident that HMOs, and particularly large numbers of HMOs, cause problems; that current planning legislation does not provide the necessary tools to manage those problems; and that 'best practice' has a very limited, though essential, role to play in addressing them. Amending planning legislation therefore offers the only possible way forward, even though, as the consultation document states, the impact of any change would be long term, and would not affect existing HMOs.

OPTION 2: The Nottingham Action Group believes that, given the evidence that exists supporting the case that HMOs are a different use of land from other dwellings in C3, amendment of the Use Classes Order will not contradict the basic tenets of planning law.

We further believe that amendment of the Use Classes Order as outlined in Option 2 is the preferred way forward. Option 2 would result in the separation of HMOs from other land uses within C3 thus enabling LPAs like Nottingham City Council to exercise planning controls over HMOs. Also, it would provide a clear and functional definition of what constitutes an HMO, thus removing the problems associated with what a 'shared house' is, or is not. Furthermore, the fact that control of HMOs could be exercised by the LPA would mean that local residents would be able to have an input into the future development of their neighbourhoods.

As we know only too well, the present situation means that, whilst HMOs can and do change the character and viability of a neighbourhood in a very fundamental way, the residents living in the neighbourhood are left powerless to influence that change, either directly (through the planning process), or through their elected representatives and the Council's planning strategies.

OPTION 3: This option proposes to amend the Use Classes Order and define HMOs in a new use class (as does Option 2). However, by allowing changes between dwelling houses in C3 and HMOs in the new Use Class to be permitted development, it removes all means of control of HMOs unless the LPA is prepared to apply for an Article 4 Direction and, of course, only if that application is successful.

There are two examples here in Nottingham at the moment of why the LPA might well be discouraged from applying for an Article 4 Direction:

- The City Council is in the process of putting together an application to CLG to introduce additional and secondary licensing of HMOs under the terms of the Housing Act 2004.
- The Council has also introduced a voluntary code of practice designed to control the use of letting boards in those parts of the city where the boards have a detrimental impact on the visual appearance of neighbourhoods. (All of these neighbourhoods have large concentrations of HMOs.) Although it is hoped that the voluntary code will be successful, if it is not, the Council may well decide to apply to CLG for permission to remove deemed consent.

These exercises are very demanding on resources, involving as they do:

- the collection and correlation of large amounts of information by the Council, other agencies, and resident volunteers;
- extensive consultation;
- input from a variety of people with different expertise;
- and the detailed preparation of documents. Clearly, if applications are made and are not successful, the resources used will have been wasted.

A third reason why an LPA like Nottingham might well decide not to apply for an Article 4 Direction is the very high possibility that it would be liable to substantial claims for compensation from investors and developers. Certainly, in the recent past Nottingham City Council has been reluctant to proceed in instances when there has been a possibility of compensation and significant costs being awarded against it.

There is a point about the use of Article 4 Directions that is pertinent to the argument about control of HMOs, and particularly the control of increased intensity of occupancy. Increased concentrations and spread of HMOs have come about as a result of conversion of family homes into HMOs. As has already been highlighted, the Council has not been able to exercise any control over this process. Neither has it been able to exercise effective control over the increased occupancy of HMOs resulting from mass conversion of garages, loft spaces and basements, often creating an extra two or three bed spaces in each property.

On appeal, Inspectors have concluded that increasing the number of bed spaces in an HMO by one or two in itself does not contribute excessively to the problems caused by that HMO.

The Nottingham Action Group argues that this is not the case. Even small increases in the occupancy levels of an HMO have marked effects on such things as waste generation and management, demand for parking spaces, and noise levels. Furthermore, extended to a number of HMOs, there is a cumulative effect which most certainly does have an impact on the neighbourhood as a whole.

It could be that Article 4 Directions (used in conjunction with Use Classes Order change proposed in Option 2), by removing rights of developments of this type, could well play a part in preventing further population demographic and socio-economic imbalance resulting from intensification of occupancy of existing HMOs.

Q.5. Do practitioners have a preference for one approach listed as part of option 2 over the other? Yes.

Option 2 proposes two ways of amending the Use Classes Order. The Nottingham Action Group's preferred option is the second, i.e. for an amendment that will provide a specific definition of an HMO along similar lines to that in the Housing Act 2004, and which is already proving to be effective in that context.

It has the distinct advantage of using a familial relationship as the basis of the definition of an HMO, therefore overcoming the problems associated with the present Use Classes Order and the interpretation of what constitutes a single household. Furthermore, by adopting the assumption that HMOs are a form of development with significant impact which requires planning permission, it removes HMOs from C3 and means that they will become subject to planning control by the LPA.

Our experience in Nottingham has been that it is not the number of occupants in an HMO which has been the important factor in Inspectorate decisions, but the 'sharing' of facilities. So we do not see how the first option, which proposed that the threshold in the Use Classes Order for C3 dwelling houses be reduced to 'not more than three residents living together as a single household', will contribute to making the Use Classes Order any more effective in dealing with the management and control of HMOs.

Q.6. What effect would a change to the Use Classes Order as described in option 2 have on those local planning authorities that do not encounter problems with high concentrations of HMOs? We see none.

It is difficult to see what significant effect a change to the Use Classes Order would have on LPAs who do not encounter these problems. LPAs deal with all sorts of planning applications, and applications for change of use to HMO would therefore become another part of that process. Indeed, LPAs which might wish to encourage HMO development would be able to do so within the framework of local planning policies.

Q.7. Would a change to the Use Class Order as described in option 2 or 3 have an impact on the homeless and other vulnerable groups? A positive impact is likely.

In Nottingham the homeless and other vulnerable groups who might well need accommodation in HMOs are very much in competition with other groups (predominantly students and so-called young professionals) who are able to pay substantially higher rental charges per bed space. The natural outcome of this competition is that the homeless and the vulnerable, along with families, are priced out of the private rented sector. A change to the Use Classes Order may indeed impact on these groups, but, by providing the means to control and therefore plan housing, it may well be that the result will be more affordable accommodation for them.

Q.8. Would a change to the Use Classes Order as described in option 2 or 3 have any unintended consequences, for example an impact on small scale care homes or children's homes, which are currently classed a C3 dwelling houses? No.

The consultation document states that part of the implementation of a Use Classes Order amendment would include an amendment to Class C3(b) to provide for '*use as a dwelling house by not more than six residents living together as a single household where care is provided for residents*'. Therefore, there would be no impact on small scale care homes or children's homes which are already in C3. As for any other unintended consequences, the members of the Nottingham Action Group and their families are living with the, presumably, unintended consequences of uncontrolled HMO development and their quantifiable and long-standing needs have to be set against any possible unknown consequences.

Q.9. Would a change to the Use Classes Order as described in option 2 or 3 impact unfairly – directly or indirectly – on any equality strands? No.

It can be argued that since the planning system is about land use, not who uses it, this question is irrelevant. However, the reality is that the present situation has resulted in considerable inequalities. We have already mentioned that the uncontrolled proliferation of HMOs in our neighbourhoods has seen disproportionate rises in house prices. That, coupled with the ability of HMOs occupied by students and young professionals to command high rentals has reduced the amount of housing (owner-occupied or private rented) available to many other groups of people in addition to the homeless and vulnerable groups mentioned in Q.7. Examples are single people, the elderly, young families.

It is the belief of the Nottingham Action Group that amendment of the Use Classes Order (Option 2), by enabling the LPA to plan more effectively, will help to reduce the inequalities that the present planning system has allowed to develop by failing to recognize the distinct nature of HMOs.

Q.10. Would a change to the Use Classes Order reduce the supply of HMO accommodation in your area? No.

Since any amendment of the Use Classes Order would not be retrospective, changing the UCO in itself would have no impact whatsoever on the number of HMOs already in our neighbourhoods. What it would do is enable Nottingham City Council's planning section to resist further conversion of family homes to HMOs in those neighbourhoods where there are high concentrations of them. Of course, it would also enable the Council to encourage development of HMOs in other areas, should there be an increased demand for them for whatever reason.

Q.11. If amendments are made to the Use Classes Order, should a property that has obtained planning permission for use as an HMO require planning permission to revert back to a C3 dwelling house? No.

The whole thrust of the Nottingham Action Group's campaign has been to prevent further concentrations of HMOs in neighbourhoods where they have either caused imbalance or are threatening to cause imbalance, and to work towards a situation where HMOs can be reconverted into family homes.

Reversion to C3 should be considered to be 'permitted development' since the task of restoring some degree of balance and viability to our neighbourhoods is going to be difficult enough without barriers of any kind being placed on the conversion of an HMO back into a C3 dwelling house.

Q.12. Would a change to the Use Classes Order as described in option 3 place a new burden on local planning authorities? Whilst acknowledging that the Nottingham Action Group has very limited knowledge of the planning system, what knowledge we do have leads us to believe that the answer to this question has to be 'Yes'.

Nottingham City Council has indicated that it wishes to use amendment of the Use Classes Order to help it control the development of HMOs. Therefore, under the terms of Option 3, the Council would need to apply for an Article 4 Direction. As has already been discussed in the response to Q.4, this would inevitably place a new burden on the Council both in terms of use of resources (time, money, personnel) and because it would not be able to recoup its costs through planning application fees.

Q.13. Under option 3, would the removal of the current requirement for HMOs to seek planning permission pose a problem for practitioners in managing land use impacts in their area? Yes.

The Nottingham Action Group are not 'practitioners in managing land use impacts'. However, following the arguments already made in this document, it does seem to us that to remove the current requirement for HMOs to seek planning permission would most certainly have a deleterious effect on the ability of our local council to manage the land use impact of HMOs. It would remove the ability to resist unsuitable HMO developments (unless a successful application were to be made for an Article 4 Direction), or to encourage those HMOs developments it might decide would be advantageous.

Q.14. Should the compensation provisions included in Section 189 of the Planning Act 2008 be applied to change of use between C3 dwelling house and an HMO if option 3 were to be implemented? Yes.

The risk of having to pay substantial amounts of compensation would indeed be a major disincentive to Nottingham City Council, and quite rightly so.

Q.15. How important would the risk of compensation be in the decision to use Article 4 directions under option 3? Enormous.

It would seem logical to assume that risk of compensation would be a major factor in any decision made by Nottingham City Council regarding the use of an Article 4 Direction under Option 3. Over the last few years it has been amply demonstrated in Nottingham that landlords, agents and property developers and investors are prepared to challenge the Council in matters concerning HMO developments, and there is no reason to suppose that they would not be prepared to do so again if a successful challenge produced substantial compensation.

Q.16. Would the extra certainty of greater control bring benefits that outweigh the burdens placed by the need to process more planning applications? Yes.

We assume that the question refers to Option 2. The Nottingham Action Group's understanding is that the fees charged by a LPA to process a planning application should, in principle at least, cover the costs to the LPA. Though, in practice, this may not be strictly true, we argue that the additional burdens are far outweighed by the ability to control HMOs that Option 2 would give to the LPA, and the benefits that would accrue from that ability.

So far, it has proved to be impossible for the Nottingham Action Group to obtain definitive costs for the actions that Nottingham City Council and other agencies undertake as a result of the problems caused by HMOs. However, it is quite clear that the cost implications in terms of time, money and manpower, are far from negligible. These actions include:

- Employing a full-time dedicated Student Strategy Manager (Nottingham City Council)
- Employment of a full-time dedicated Off Campus Student Affairs Manager (Nottingham University)
- Community Officer post (Nottingham University Students' Union)
- Senior staff tasked with dealing with community-related affairs (Nottingham Trent University)
- Student Union officers tasked to deal with community related affairs (Nottingham Trent University)
- Substantially increased regular waste management and street cleansing routines (Nottingham City Council)
- Special waste collection at peak times of the academic year (Nottingham City Council)
- Setting up of a branch of Unipol Student Homes in Nottingham (primarily Nottingham City Council)
- Removal of fly posters and fly-tipped waste (Nottingham City Council)
- Extermination of vermin (Nottingham City Council)
- Attendance at the Week One/Freshers' Fair events and Returners' events at both universities (Nottingham City Council, Nottinghamshire Police, Nottinghamshire Fire & Rescue Service)
- Production of a Student Directory (Nottingham City Council)
- Consultation on, up-dating of and production of Nottingham's Student Housing Action Plan (Nottingham City Council in association with the Nottingham Action Group, the two universities, their students unions, and landlord organization representatives)
- Development of Nottingham's Balanced Communities Supplementary Planning Document (Nottingham City Council)
- Organizing and attending Student Co-ordination and Delivery Group, and Student Strategy Leadership Group meetings (Nottingham City Council in association with the two universities, their students unions, the Nottingham Action Group, Nottinghamshire Police, Nottinghamshire Fire & Rescue Service, the Crime & Drugs Partnership, landlord and agent representatives)
- Continual dissemination to HMO tenants of information on such topics as waste management and recycling, crime prevention, safety, behaviour in the community (Nottingham City Council, Nottinghamshire Police, the Crime & Drugs Partnership, the two universities and their students unions, Nottinghamshire Fire & Rescue Service, the Nottingham Action Group)
- Investigation of high levels of crime that appear to be associated with HMO concentrations (Nottinghamshire police)
- Campaigns to mark property with Smart Water and install anti-theft devices in laptop computers (Nottinghamshire Police)
- 24-hour help line (Nottingham University)
- Dealing with additional noise complaints (Nottingham City Council)
- Cost of administering and enforcing resident parking schemes (Nottingham City Council)
- HMO Action Zones and HMO enforcement (Nottingham City Council)
- Monitoring of the voluntary code of practice for letting boards (Nottingham City Council, Unipol, the Nottingham Action Group)

This is by no means a comprehensive list of the people and organizations involved in dealing with issues relating to HMOs. Neither is it a complete list of the actions that have to be repeated each year. The people, the organizations and the activities are vital in order to limit further deterioration of neighbourhoods that already have substantial numbers of HMOs. However, they make little or no inroads on the process of restoring these neighbourhoods to the point at which they once again become attractive to a wider cross-section of Nottingham's home-seeking population.

In addition to the loss of good family homes in a city where it has been acknowledged that there is a shortage of such accommodation, what cannot be quantified in purely monetary terms is the loss of the glue that holds together the fabric of healthy and thriving neighbourhoods which are net contributors to the future as well as the present prosperity of Nottingham.

This last point is well-illustrated by an article, reproduced in Appendix 2, that appeared in the Summer 2006 -Autumn 2007 issue of the Nottingham Action Group's magazine.

Only Option 2 will give Nottingham City Council the principal planning tool it needs in order to control HMOs developments and thus:

- prevent the development of more HMOs in neighbourhoods where there are already concentrations of them;
- prevent new concentrations from developing elsewhere;
- and prevent the burden that will result from new HMOs and especially new concentrations of HMOs. The extra burdens imposed would be far outweighed by the certainty this amendment to planning legislation would bring.

CONCLUDING REMARKS

It is the increasing student population of Nottingham that has acted as the principal driver behind the extensive and rapid conversion of erstwhile family homes into HMOs. This is an important fact which explains why the evidence and the arguments put forward in this document predominantly refer to student-occupied HMOs rather than those occupied by other groups. It is the conversion of family homes into student-occupied HMOs that has led to the imbalance and loss of sustainability of the neighbourhoods in which they have become dominant features. This has then driven an additional market for other HMOs catering to other groups (young professionals, migrant workers, etc.). In many cases these HMOs are to be found in the same neighbourhoods as the student-occupied ones, further exacerbating the problems facing the communities concerned.

It is not tenants or even HMOs per se that lie at the root of the problem. It is the fact that there is no effective way in which their concentration and spread can be controlled and, therefore, successfully incorporated into local plans and strategies.

There is no simple answer to this problem. Leaving the situation to market forces may well appeal to some interested parties and the organizations that represent them. However, this is not an option if government and local authorities truly want balanced, sustainable and cohesive communities. Equally, best practice, whatever it may be, at best only contains the problems caused by HMOs. It does not address the underlying reasons why the problems are there in the first place. Though effective planning controls alone will not provide the whole solution, it is the lack of effective planning controls that has led to the present situation in so many of our neighbourhoods and which, if effective controls are not forthcoming, will lead to yet more neighbourhoods facing the same problems.

It is effective planning controls that will provide the tools needed to tackle the root causes of the problems originating from HMOs by preventing further build up of HMOs in neighbourhoods where they have already destabilized the social, economic, demographic and environmental profile, and preventing the same destabilization from happening in other neighbourhoods in which these problems do not exist – yet.

For this reason, the Nottingham Action Group on HMOs supports a change in planning legislation, more precisely Option 2 – the amendment of the Use Classes Order – and urges Government to:

- **Introduce a definition of HMO into the Town & Country Planning (Use Classes) Order 1987 which is the same as that used in the Housing Act 2004;**
- **Remove HMOs from Use Class C3 and either place them in a new Use Class C4 or explicitly as *sui generis* in Para.3(6) of the Order;**
- **Add a new class of permitted development of HMOs to Class C3 (Part 3, Schedule 2) of the Town & Country Planning Order 1995 (General Permitted Development).**

APPENDIX 1

PROBLEMS ASSOCIATED WITH HMOs AND THEIR IMPACT

Anti-social behaviour problems. Predominantly, difficulties experienced by residents focus on what one can call low-level, but persistent, anti-social behaviour. This includes:

- Instances of public nuisance, mostly associated with drunkenness and so-called 'initiation rites'. Reports of urination, defecation and vomiting in streets, in doorways, gardens and elsewhere are common and persist throughout the duration of the academic year, along with reports of 'minor' vandalism (car wing mirrors damaged, damage to fences and trees and shrubs). On the other hand, reports of public nudity and other behaviour associated with 'initiation rites' tend to peak during the first academic term. However, there are persistent reports throughout the academic year of HMO tenants who appear to deliberately expose themselves at bedroom windows.
- Noise nuisance occurs in the street (especially during the early hours of the morning after clubs and bars have shut), within properties and in gardens and yards (music, shouting, swearing and what is consistently termed as 'screaming'). It needs to be said here that one of the most debilitating effects of noise results from transmission of music, shouting, door slamming, etc. through party walls. Residents quite regularly liken this to having other people, over whom you have no control, living in your own home. Many residents also report frequent evening and late night noise nuisance associated with taxi activity, e.g. when taxi drivers hoot horns when picking up customers (usually when the customers are preparing to go to nightclubs and bars in the early evening) along with the noise of slamming taxi doors and loud voices when the customers return during the night. Another regular source of irritation reported by residents is continuous noise from burglar alarms, especially during periods when the HMOs are empty. This problem is exacerbated by the fact that often the landlord/agent's contact details are not known and so the residents are unable to ask for the alarm to be attended to.
- Unfortunately, residents continue to report instances of intimidating behaviour by HMO landlords/agents, HMO tenants and their friends and guests, and/or have been subjected to abusive language. This has most frequently occurred when the residents have challenged the behaviour of tenants and their guests, or drawn the attention of the owner or agent of an HMO to issues concerning the management and maintenance of the property. Although these instances are relatively few in number, their impact on the lives of the people who have been the object of this abuse is substantial, even more so when the residents have been elderly or have been living alone. It needs to be added that very often residents do not report these incidents to the Police or other authorities: they judge that they would rather live with the problems than with the possible consequences of reporting them.

Environmental problems. These can be summarized as:

- **Regular problems** with the day-to-day management of waste, e.g. inappropriate disposal of kitchen and other domestic waste as well as other litter within the curtilage of HMOs. Closely allied to this are frequently reported problems with vermin (rats and mice). The reasons for these problems are that:
 - ▶ HMOs have a much higher occupancy than the equivalent 'family' home and therefore generate more waste;
 - ▶ there is a general lack of internal management of HMOs, i.e. the tenants seem to be unable or unwilling to take responsibility for such things as segregating waste into different wheelie bins and making sure that the bins are put out for emptying on the correct day, and have no feeling that they should clean up other litter that accumulates in gardens and yards;
 - ▶ absentee landlords and agents do not take responsibility for the overall management of the properties.
- **'Seasonal' waste disposal problems** which are associated with the beginning and end of university terms, and particularly with the end of the university year when the tenants leave, and when landlords and agents clear out the properties. Typically this results in overflowing wheelie bins, and left over food, mattresses, unwanted white goods, and bedding being dumped outside properties or fly-tipped elsewhere.
- **External and internal maintenance of HMOs.** Although there are examples where landlords and agents do make some effort to maintain the external appearance of HMOs, by far and away the more usual scenario is one where gardens and hedges are left to run wild, fences, gates guttering and window frames are not repaired, and only the most rudimentary maintenance is done to the inside of these properties, and then only irregularly and often only when enforcement action is threatened by the Council.
- **Infrastructure:** The intensity of occupation of HMOs, along with lack of regular maintenance, puts extra stress upon local infrastructure, such as drains and sewers. This, in turn, has led to an increased number of instances when drains have become blocked or damaged. At 'best' this has resulted in accumulations of waste water collecting on the properties or flowing across pavements and into main drains with associated pollution and smell. When drains have been damaged and exposed, this has also contributed to vermin infestation.

- **Letting boards** and 'let by' boards, often left in situ for 12 months of the year, are an unwelcome addition to the street furniture of many of our streets with HMOs. They downgrade the visual appearance of the neighbourhood, emphasize the transient nature of the occupants, and flag up with burglars and other criminals that there are 'easy pickings' to be had.

Community problems are the least easy to quantify. Ultimately they have the most impact on how established residents feel about their neighbourhood. They are also what reduces the ability of a neighbourhood to renew itself. Examples of some of the issues most frequently raised by residents are:

- **local retail facilities** become skewed due to unbalanced residential occupancy, e.g. preponderance of takeaways, letting agents, bars and pubs (which often close during university vacation times) and mini supermarkets stocking a limited range of goods, especially during university vacations.
- **community stability and diversity** reduced. People living in neighbourhood with HMOs have a different set of neighbours almost every nine months or so. The transient nature of HMO occupancy means that established residents feel isolated (and often are when they live in streets where more than 90% of the properties are HMOs), while the tenants themselves have no feeling of responsibility to or for the neighbourhood in which they are transient residents. Concentrations of HMOs as well as the over-intense nature of their occupancy can very quickly change the fundamental nature of a neighbourhood from one in which there is social, economic, cultural and demographic diversity into a mono-culture. Established residents who have remained in these neighbourhoods not only speak of the loss of neighbours and neighbourhood spirit (help when there is illness or disability, care of pets and properties when the owners are on holiday, etc.), but also of streets where, only 10 years ago, it was common place to see children (and students) playing football together. Instead, now there is what they call an 'unnatural' silence during the university vacations. There are no children to play in the streets. Very few people are around long enough to be able to recognize one another let alone give help and support when needed. This is known locally as the *'Who's going to look after the cat?'* syndrome.
- **community amenities**, such as schools, meeting halls, libraries and leisure facilities continue to be lost. Very often these are vital to the long-term well being of a neighbourhood and, once they are gone, are almost impossible to replace.
- **housing market imbalance**. Demand for HMOs has resulted in the mass conversion of large numbers of family homes. Comparison of house prices in areas where there is a high demand for HMOs with similar areas elsewhere, seems to indicate that HMOs result in an over-inflation of house prices and, therefore, reduced appeal to buyers other than investors in the buy-to-let market and professional landlords. This has certainly reduced opportunities for low cost home ownership. Indeed it has removed opportunities for families to buy properties in the lower to middle price ranges, as well as removing the appeal for families to buy properties in the higher price brackets. A common statement is: *'Why should I buy a house next to an HMO and pay over the odds for the pleasure of owning it?'*
Allied to this is the fact that, once the dominant housing type in a neighbourhood is HMOs, the only potential buyers are HMO landlords and buy-to-let developers. This, in turn, means that house prices are then controlled by a relatively small group of buyers and primarily are determined by potential number of rentable rooms and available parking space. This situation clearly penalizes established residents if/when they wish to sell. Also it removes residents' incentives to invest in improvements to the quality of the fixtures, fittings, gardens, etc., since these are not reflected in the value of the property.
- **Parking problems**. Typically, around 50% of HMOs tenants bring cars to Nottingham. In practice, it is not unusual for an HMO with 6 tenants to have between 3 and 6 cars associated with it. In streets where there is either no off-road parking or limited off-road parking, this causes acute problems for established residents who need to use their cars on a daily basis, and particularly the elderly and infirm who either rely on their cars for transport, or who rely on regular visits from friends and relatives to provide support with their day-to-day needs.
The demand by HMO tenants for car parking space has also had two unforeseen consequences. It has resulted in intensified interest from landlords and developers in properties which have off road parking facilities. This has contributed to increased sale prices, further exacerbating the problems noted in the section above dealing with the housing market. It has also resulted in a number of instances when landlords have attempted to rent out front gardens as parking space for tenants living in HMOs elsewhere in the area. This too has contributed to the conversion of gardens into hard standing and therefore to further degradation of the environment of the neighbourhood.
- **Crime**, especially burglary, and predominantly burglary of HMOs, is a feature of neighbourhoods in Nottingham with large numbers of HMOs. Indeed, the other year, one of Nottingham's streets with a large number of student-occupied HMOs was reported in the national press as being the 'most burgled' street in England. This certainly does not encourage new families to move into these neighbourhoods. Established residents who do live there are left feeling insecure and are penalized by the knock-on effect this has on their insurance premiums.

APPENDIX 2

ARTICLE FIRST PUBLISHED IN THE SUMMER-AUTUMN 2006 ISSUE OF THE
MAGAZINE OF THE NOTTINGHAM ACTION GROUP ON HMOs

Houses are More than Bricks • Mortar • Money

INVESTMENT OPPORTUNITIES
FOR
DEVELOPERS & BUY-TO-LET/SECOND HOME SPECULATORS

THEY ARE HOMES BUILDING BLOCKS OF NEIGHBOURHOODS CORNERSTONES OF COMMUNITIES

When it comes to the problems surrounding 'studentification', and HMOs, most of what gets talked about, and shown, is the nuisance: litter, rubbish, persistent, usually low level, often thoughtless, anti-social behaviour.

However, it's possible to clean up streets, get rid of litter, and curb the worst excesses of landlords and their tenants. But none of this is going to make neighbourhoods capable of sustaining and renewing themselves.

That needs people who are prepared to put down roots, feel responsibility for, and to, their neighbours, and, ultimately, contribute to the long term health and future of the greater community. In other words, people for whom houses are first and foremost homes. People who '*... stay for the long haul ...*'

Yes, a house is probably the single largest financial transaction most of us are likely to contemplate. The fact that the equity is likely increase over time is part of the picture. But not the whole picture.

Just as important is the neighbourhood: its location, its amenities, the people – its '*ambiance*'.

We invest in a house and make it a home. We also invest in the long term viability of the neighbourhood. What happens to it and to our neighbours is important. Usually, when we move on the people who buy our home also buy into the neighbourhood and its future strength and vitality and fitness.

In our neighbourhoods this isn't happening.

Speculators buying properties for conversion to HMOs purchase a commodity that will give the maximum return on their investment They don't even live here. So why expect them to care about the welfare of the neighbourhood?

Their tenants are young, highly mobile, totally absorbed in their own lifestyles. The houses they occupy are accommodation. Their homes are elsewhere. Their commitment to our neighbourhoods is minimal and transient. Their time as investors in homes and neighbourhoods is yet to come.

The danger is that council, universities, students all concentrate on cleaning up the environment '*... bailing out the Titanic's engine room with teaspoons ...*' and put aside the fact that there are: too many HMOs, too few families, not enough children, degraded amenities. They must not ignore the social and emotional misery of the real people living in the host communities who are at risk of becoming aliens in the dying neighbourhoods that were once their own.

In our neighbourhoods families and others don't want to, or are prevented from, making a commitment to the '*long haul*'. That has to change. How to do it is the real challenge – for council, universities, students [landlords] and, ultimately, for Government itself.

Rise to it and there is some hope that we will again have

*—Neighbourhoods where families want to live
... not leave!—*