

National HMO Lobby

Response to the CLG Consultation on *Houses in Multiple Occupation and possible planning responses*



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Front Cover: HMOs in Nottingham

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Abbreviations

BURA: British Urban Regeneration Association
 CLG: Dept for Communities & Local Government
 DEFRA: Dept for Environment, Food & Rural Affairs
 DETR: Dept for Environment, Transport & Regions
 DTLR: Department of Transport, Local Government & Regions
 GPDO: Town & Country Planning (General Permitted Development) Order 1995
 HMO: House in Multiple Occupation
 LA: Local Authority
 LPA: Local Planning Authority
 NUS: National Union of Students
 PPS: Planning Policy Statement
 UCO: Town & Country Planning (Use Classes) Order 1987
 UUK: Universities UK

Introduction: the National HMO Lobby

01 The National HMO Lobby was founded in 2000 by half-a-dozen community associations in towns around the country concerned about the impact of houses in multiple occupation (HMOs) on their communities. For some years, the Lobby continued on an informal basis, until in 2004, it formally adopted a constitution, aims and structure; its website was launched in 2005. Over the years, its membership has expanded, and now stands at nearly sixty groups, in nearly forty towns.

02 The Lobby's members are mostly in university towns, where in quantitative terms, HMO concentrations are greatest. But many of these towns are also coastal towns, which have their own issues. And some Lobby members are in coastal towns only. Most of the Lobby's members are in England. But they are in fact widespread throughout the UK - in all the English regions, and in all the nations, Wales, Scotland and Northern Ireland.

03 The Lobby's aim has always been to campaign for action to resist concentrations of HMOs, and thereby their detrimental consequences. This has mainly been on two fronts, housing legislation and planning legislation. The Lobby's initial focus was on HMO licensing, which was achieved in the Housing Act 2004. Subsequently, the Lobby campaigned for planning controls also on HMOs through amendment of the Use Classes Order (UCO). The present consultation therefore is warmly welcomed by the Lobby. Its campaigns are recorded on its website at <www.hmolobby.org.uk/index.htm>

Consultation Questions

Q1. Do you experience problems/effects which you attribute to high concentrations of HMOs?

04 Yes. As recognised in the *Consultation* itself, the problems caused by concentrations of HMOs are widely acknowledged by all the principal stakeholders, in addition to local communities, especially (but not only) in university towns (see **Annex E, F** for details).

- a) The problems have been recognised by government in the Housing Research Summary 228 *Dealing with 'Problem' Private Rented Housing* (2006) and in CLG's *Evaluating the impact of HMO and Selective Licensing: the baseline before licensing in April 2006* (2007). Ministers have visited, and been visited by, affected constituencies (Leeds 2001 & 2002, London 2004, Loughborough 2006, London 2007 [twice], London 2008, Loughborough/Nottingham 2008, Southampton 2009). The Parliamentary University Group considered *Student Accommodation* on 15 November 2006, and in 2007, the All-Party Parliamentary Balanced & Sustainable Communities Group was registered. Debates in the Commons on the issues include 'Balanced and Sustainable Communities' and 'Houses in multiple occupancy' both on 5 June 2007, and 'The Private Rented Sector' on 24 June 2008. And of course the ECOTEC Report and the Rugg Review were both published last year.
- b) Councils have introduced (or are introducing) local HMO planning policies, for instance, in Birmingham, Durham, Leeds, Loughborough (Charnwood), Nottingham, Sheffield, etc. (see **Annex A**), and the Councillors Campaign for Balanced Communities was set up in 2007.
- c) Universities UK has published *Studentification: a guide to opportunities, challenges and practice* (2006) and held conferences in London in 2004, 2006 and 2007.
- d) Students have acknowledged the issues, for instance, the National Union of Students' *Students in the Community: Working together to achieve harmony*, (2007) and *Neighbourhood: Partnerships and Planning* (2009), and in their conferences in Leeds 2008 and Birmingham 2009.
- e) The accommodation-providers Unipol Student Homes have organised numerous conferences on the topic, in their own right, and on behalf of other organisations, for instance, in London 2000, Leeds 2004, London 2004, Nottingham 2006, Nottingham 2007, Nottingham 2008, Leeds 2008, London 2009 and Leeds 2009.
- f) However, the first steps to address HMO problems were in fact taken in relation to coastal towns, in the DETR Consultation Paper *Licensing of Houses in Multiple Occupation - England* (1999). These problems were considered in the Commons CLG Committee's *Coastal Towns* (2007), they have been discussed in BURA's Seaside Network conferences (Scarborough and Rhyl 2007) and they were the subject of BURA's reception *Turning the tide of HMOs in coastal towns* (2009). (Surprisingly, seaside HMOs were considered by neither the ECOTEC Report nor the Rugg Review.)
- g) Migrant-worker HMOs, however, were considered by both the ECOTEC Report and the Rugg Review.
- h) Meanwhile, the issues have been reported in the media (see Chrisafis, Harris & McVeigh, Tysome, Soni, Purves, Simpson, Tickle, Stratton, among many). More significantly, perhaps, they have also become the subject of academic study (see Smith, Hubbard).

05 However, the breadth and depth of HMO impacts are frequently under-estimated. For instance, the Rugg Review (cited in the *Consultation*, para29) systematically under-estimates the scale of these impacts (see **Annex B**).

- a) First of all, by referring to Household Representative Persons in HMOs only, Rugg under-estimates the population of HMOs: on average, they usually have twice the number of occupants of family households.

- b) Secondly, by basing her analysis on wards, Rugg minimises the impact of HMOs: local government wards vary considerably in size, and some are very large. In such areas, numbers of HMO occupants would need to be very high in order to make an impact. A concentration split between wards would make no impact. The Lower Super Output Areas of the Census 2001 would have provided a more credible basis for analysis.
- c) Thirdly, Rugg relies on data from the Census of 2001, which is now seriously out of date: by 2006, overall student numbers had increased by 17.3%, and in Birmingham, Leeds, Newcastle and Nottingham, the increase was over 20%
- d) Finally, of course, Rugg gives no attention to HMO numbers in coastal and market towns.

06 As already noted, the *Consultation* lists a number of impacts in para7 - but this account is very incomplete.

- a) For instance, social impacts include ‘antisocial behaviour’ of course. But this includes not only serious antisocial behaviour, but also endemic low-level antisocial behaviour, such as noise nuisance (in houses, in gardens, in the street), public drunkenness, evacuation (vomiting, urinating, defecating), vandalism. Crime has to be added: student HMOs are a magnet for burglary (soft targets, rich pickings).
- b) Environmental problems include ‘litter’ and ‘parking problems’ - but these pale into insignificance beside the impact of student rubbish and landlord flytipping. These in turn lead to rodent infestation. Streets are blighted by letting boards, flyposting, security grilles. Gardens go wild, or are concreted over. The built environment is exploited for maximum profit, at the cost of residential amenity, both on-site and in the surrounding area.
- c) The local economy becomes a ‘resort economy’, the market fluctuating wildly between term and vacation, retail distorted towards a very narrow demographic, and work becomes casualised.
- d) Certainly there is intense ‘pressure on over-used community facilities’ (local public services).

07 At the same time, and more fundamentally, some services are under-used, leading to the ‘closure of under-used community facilities’. Most serious of these are schools, which are so crucial to sustaining a community - not simply educating the next generation of residents, but providing a vital social nexus. As the demographic balance shifts, both young and old become isolated. Rising house prices and loss of amenity lead to an exodus of families. There is indeed ‘reduced opportunity for low cost home ownership’. Those who are left struggle to maintain the neighbourhood, surrounded by a disengaged population. Cohesion and sustainability are lost, as *anomie* erodes the community.

Q2. Do you consider the current planning framework to be a barrier to effective management of HMOs by local planning authorities?

08 Absolutely. The current planning framework is not so much a *barrier* to effective management as a *breach*, through which private enterprise is able to drive a coach-and-horses. In principle, the Use Classes Order (UCO) does offer instruments for the control of HMOs: “as a general rule planning permission will be needed before a dwelling house could undergo a material change of use to an HMO” (*Consultation*, para25). However, in practice, these instruments have proved largely ineffective. The example in **Annex C** provides an illustration: a large property in Selly Oak in Birmingham was occupied by six students. In ordinary parlance, this would be understood as a shared house, or HMO. And under the Housing Act 2004, this property would be liable to mandatory licensing as a HMO. The LPA considered this an unauthorised change of use, and issued an enforcement notice. However, at an appeal (Appeal Ref APP/P4605/C/04/1163187), the Planning Inspector considered that there was “a fairly high degree of sharing”, and

“the property is occupied by persons living together as a single household”. He concluded therefore that the property did not qualify in planning terms as a HMO, and supported the landlord’s appeal against the notice served by the LPA. Other authorities up and down the country have suffered similar experiences, and have abandoned attempts to manage the distribution of HMOs by means of the UCO. While each planning appeal is a decision on its facts, in practical terms the planning judgment contained within the decision is highly material in future cases, thereby effectively tying the hands of authorities and inspectors.

09 It is worth considering why the UCO failed in this and similar instances. There is no question that in the property, facilities were shared (kitchen, etc) - the house was clearly a single dwelling, not a set of independent apartments. At the same time, there was no question that the occupants were un-related, except in the most casual terms; they did not constitute a ‘single household’ as normally understood, and as defined by the Housing Act 2004. The Inspector (like many of his colleagues) interpreted the idea of ‘single household’ in *functional* terms: the occupants simply shared facilities; but on this basis, an army barracks could be conceived as a single household. On the contrary, common usage and housing legislation interpret the idea of ‘single household’ in *structural* terms, that is, on the basis of the relationships within the household. On this basis, there is a clear distinction between a shared house and a single household (typically a family). It is the lack of a clear distinction between ‘single’ and ‘multiple’ household which emasculates the UCO as a tool for the management of HMOs, and undermines the planning process that seeks to prevent the effect that uncontrolled HMOs have on the neighbourhood.

Q3. 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?

10 No. There are a number of problems with the promotion of ‘best practice’ as proposed in Option 1 as a means of dealing with the problems associated with concentrations of HMOs. The National HMO Lobby does not in fact accept that there is “good practice in areas that manage to cope *relatively well* with high concentrations of houses in multiple occupation” (*Consultation*, para10). First of all, current best practice addresses some of the symptoms of studentification, but by no means all. Best practice attempts to tackle most forms of social impact (attempts to educate students regarding appropriate behaviour and security). Best practice attempts to tackle some forms of environmental impact (education regarding waste disposal or car usage), but it leaves others untouched (degradation of houses and gardens). But best practice offers no measures to deal with economic impacts (**06c** above). (Universities UK and NUS are currently preparing a report on *Student’s unions and universities working together with the community*.)

11 Best practice is only ever partially successful. Many university towns have adopted some forms of best practice - but residents are still infuriated by the implacable social, environmental and economic impacts of HMOs. Part of the problem is that student populations change every year. Every year then, best practice has to start from scratch (the Groundhog Effect). And every year, the new cohort inherits ‘worst practice’ from their predecessors.

12 More seriously, aside from the fact that best practice simply doesn’t work, it actually only addresses the symptoms of HMO concentrations, and has nothing to do with the causes, the concentrations themselves. This is in fact recognised in paraA31: “this approach would not be able to prevent the clustering of HMOs.” Best practice does not resist the development of concentrations of HMOs, nor does it encourage their dispersal. Rigorous accommodation strategies, agreed between HEIs and LAs, might have done the job (as recommended by Rugg in

2000, “A housing strategy should be integral to the expansion plans of every HEI, and comprise an analysis of likely impacts on the local rental market and consultation with local community groups”, p34). But no university town has adopted effective student accommodation strategies - partly at least because of the lack of adequate planning controls (see Question 2).

13 Again, Option 1 proposes the ‘promotion’ of best practice. But it gives no indication of how this might be done. Best practice has been promoted, in publications and conferences. For instance UUK published *Studentification* in 2006, NUS published *Students & Communities* in 2007, and the Lobby itself published *Balanced Communities* in 2008. Meanwhile a whole series of conferences have been held, including London 2000, Ulster 2003, Leeds 2004, London 2004, London 2006, Nottingham 2006, Nottingham 2007, Norwich 2007, London 2007, Nottingham 2008, Leeds 2008 (twice), Brighton 2008, London 2009, Birmingham 2009 and so on (**Annex E**). Nevertheless, it remains the case that instances of fully-developed best practice are few and far between. It is difficult to see what more could be done by way of promotion. In the end, Option 1 is entirely reliant on the good will and motivation of individual HEIs and LAs.

14 Finally, Option 1 offers nothing at all to towns with HMO problems which are not university-generated. University towns at least have an identifiable institution with ultimate responsibility for the problem, the local HEI, and a (student) population with a representative organisation, the local student union. These organisations provide at least a starting-point for best practice. No such frameworks are available in coastal or market towns.

Q4. 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?

15 It is evident that concentrations of HMOs have caused problems (Q1), that current planning legislation is inadequate to manage these (Q2), and that ‘best practice’ alone is not a solution (Q3). Evidently, planning legislation requires revision. Option 2 and Option 3 offer radically different approaches, either systematic or selective.

16 Option 2 reinforces the current UCO, and adopts the assumption that HMOs are a form of development with significant impact which requires planning permission. The National HMO Lobby would argue that there is in fact a *prima facie* case for doing so. In most respects, HMOs are as distinct from family Dwellinghouses (Class C3) as are Hotels (C1) or Residential Institutions (C2). For instance, *occupancy* is intensive (like a high-season hotel), *occupants* are invariably young adults (unlike any other C Class), the *occupiers* lack the structure of a family household (or a hotel or institution), and their *occupation* is short-term (if not quite as brief as a hotel). All these factors influence the intensity of usage, the style of usage, and the possibility of local commitment, and therefore the impact on the character and amenity of the local area.

17 Option 2 removes the ambiguity over the meaning of ‘single household’. It replaces the *functional* usage of Planning Inspectors (which allows any *shared* house to be a ‘single household’). It substitutes the *structural* definition of the Housing Act 2004, which prioritises the relationships within the household (and therefore excludes *shared* houses). Secondly, Option 2 explicitly removes all houses in ‘multiple occupation’ from Class C3. Either as a new development or as a change of use, they thereby become subject to planning control.

18 In assuming that HMOs require planning permission, Option 2 would provide all LPAs with the option to manage the provision of HMOs. This could be to resist their development (as in

the case of concentrations of HMOs), or it could be to encourage their development, where needed. As noted in para42 of the *Consultation*, LPAs could adopt local planning policies to either effect (see **Annex A**). The point is, LPAs would acquire a power (which they presently lack) to exercise in the interest of their locality, as they chose. This therefore returns the power to control the local environment to the body elected so to do.

19 Crucially, a requirement for planning permission benefits local residents. At present, since permission is not effectively necessary, no planning application need be made - and there is no means by which neighbours can be alerted to a local development. Amendment of the UCO would be empowering for local communities (though safeguarding public well-being remains with the LPA).

20 Option 3 however takes an opposite approach. Though it proposes redefinition of HMO as in Option 2, in contrast it goes on to remove HMOs from the UCO *altogether* by identifying them as permitted development, through the GPDO. LPAs thereby lose any planning control at all - unless they apply successfully for an Article 4 Direction, suspending the permitted development of HMOs in a designated area.

21 Option 3 therefore assumes that HMOs are permitted development. Conversion of family dwelling houses becomes the accepted norm, unlike the present planning framework, which does at least assume that planning permission is needed, even if this is often ineffective. The corollary is that controls on HMOs become exceptional, requiring special justification. Encouragement of, or resistance to, the development of HMOs is no longer even-handed - management of HMOs becomes the exception rather than the rule. This has a number of implications.

22 Generally, both residents and LPAs are disempowered by Option 3. Specifically, in order to gain any control over HMOs, LPAs are obliged to apply for an Article 4 Direction. First of all, the application itself is a resource-intensive exercise, requiring the gathering of data, a consultation process and the preparation of documents, with the likelihood of a Public Inquiry, itself requiring further preparation and the input of specialist expertise. (It is perhaps significant that so far only one LPA, Peterborough, has applied successfully to central government to introduce additional HMO licensing.) Secondly, it actually takes the decision over HMO controls out of the hands of LPAs, who become dependent on the judgement of central government (through Planning Inspectors); policy is distanced from those at the coal face. (For instance, Article 4 Directions are commonly quite small in area: will central government accept the large areas that would need to be covered, to resist HMO concentrations?) Finally, local authorities will become liable to compensation claims from unsuccessful developers who may feel that they have been disadvantaged (this may be mitigated by the Planning Act 2008, but only marginally).

23 It is evident therefore that HMO problems require planning solutions. And only Option 2 offers effective solutions.

Q5. Do practitioners have a preference for one approach listed as part of option 2 over the other?

25 The point of amending the UCO as proposed by Option 2 is to make the UCO more effective in managing HMOs. The Option posits two ways of doing so. Para37 of the *Consultation* suggests simply reducing the threshold for considering usage as a HMO from six persons to three persons. But this does not address the actual problem embedded in the UCO. Certainly, with a threshold of three, it may be more likely that a material change of use has taken place, or at least it can be objectively assessed that it may more easily have occurred, when this

threshold is exceeded. But numbers have not been the key issue in Appeal Decisions by Planning Inspectors. The key issue has been the appearance that a single household is in place, as demonstrated by the sharing of facilities. Inspectors have found no difficulty in accepting that six or even eight occupants can share facilities as a 'single household'. In these circumstances, dropping the threshold to three persons seems irrelevant.

26 The real issue is the definition of what constitutes a 'single household'. Inspectors have taken a functional approach, and seen simply sharing as definitive. However, normal usage distinguishes a 'shared house' from a family house. And this is because normal usage relies on a structural understanding of 'single household', which is made explicit in the definition in the Housing Act 2004. Here, a 'single household' is defined, not in terms of how the occupants *function*, but in terms of how their relationships are *structured*. And a family-type structure of mutual dependence (intentional, autonomous, long-term) is taken as the criterion. In order to make HMOs manageable in planning legislation, their definition must reflect current understanding of the notion of 'multiple occupation' - which (as noted above, 09) is radically different from a single (family) household. As proposed by para38 of the *Consultation*, therefore, HMOs should adopt the definition of HMO introduced by the Housing Act 2004.

27 However, a new definition of HMO in the UCO, while necessary, is not sufficient. In order for HMO development to fall under development control, it must be distinguished from existing Use Classes - specifically from Class C3, where HMOs are currently accommodated. If HMOs were located elsewhere in the UCO, then HMO development would qualify either as development within a new class or as change of use from an existing class (usually, from C3). In either case, permission would be necessary, and a planning application would be required. This could then be considered, and granted or refused, depending on local policy and circumstances.

28 Two possibilities for the relocation of HMOs are suggested - either adding a new Use Class to the UCO, Class C4, or explicitly identifying HMOs as *sui generis* (as Northern Ireland has done), by clearly allocating them as such in paragraph 3(6) of the UCO. Opinions on this issue are not invited, but the National HMO Lobby suggests that the latter might be simpler and more straightforward to implement. This would give immediate control back to local planning authorities in all cases for an individual determination on the specific merits. This kind of definition has proved very successful in controlling existing *sui generis* uses.

Q6. 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?

29 None. In principle, Option2 need have no effect at all on LPAs without HMO problems. HMOs would simply enter the planning process, along with all other significant development. It would enable both local communities and local councils to make informed decisions. In practice, it may be argued, submitting a planning application would represent a hurdle which might discourage HMO developers. If the LPA had no particular preference for or against HMOs, then this would be neither here nor there. If the LPA wished to encourage HMOs in general or in particular areas, then simply awaiting the whim of developers would seem to be poor policy. (HMO-conversion is perhaps the only form of housing development which does not require planning permission.)

30 In fact, if a LPA wished to encourage HMOs, then first of all, one might expect the authority to make it clear to would-be developers that they would be supported in making appropriate applications. And secondly, one might expect the LPA to adopt local planning policies making

this explicit. Some authorities have in fact done so. In its Unitary Development Plan, the London Borough of Richmond upon Thames has included Policy HSG15 on 'Non Self-Contained Accommodation' (meaning HMOs), which states, "The Council will consider favourably applications for new non self-contained accommodation" (see **Annex A**).

Q7. 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?

31 Yes, positively so. The changes to the UCO proposed in Options 2 and 3 would indeed have an impact on the homeless and other vulnerable groups - to their advantage. It is not the case that the present effective free-for-all in the HMO market benefits the homeless. A decade or two ago, this may have been the case, when HMOs were marketed to the disadvantaged. But the market has moved on, and there are now substantial competing markets for HMOs - especially well-resourced students and young professionals. A very high proportion of new HMOs are targeted towards these new markets, frequently at the expense of the disadvantaged (see Rugg, 2000). If there are areas where there is a shortage of accommodation for the homeless and others, and if HMOs are considered to be an answer to this problem (there may be better answers), then improved controls over HMOs would allow all LPAs (along with LHAs) to encourage better provision. Local planning policies, combined with planning permissions with appropriate conditions, would in fact improve, not only the quantity of HMOs available to the homeless and others, but also their quality.

Q8. 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?

32 No. The *Consultation* actually answers its own question. Changing the UCO could have unintended consequences, for instance on small-scale care homes or children's homes. But para38 of the *Consultation* proposes an amendment to the UCO which would resolve this point. There might be other unintended impacts (for instance, in these straitened times, on a family taking in lodgers, in order to help pay the mortgage). But the change would not actually prevent such arrangements. And even if they did, these would be small inconveniences to set against the huge impacts of the limitations of the present planning framework. It should be remembered that the present permissive regime allows unintended consequences - that is, developments which are actually contrary to national planning policy, specifically 'achieving housing mix,' as set out in Planning Policy Statement 3 on *Housing* (paragraphs 20-24).

Q9. Would a change to the Use Classes Order as described in option 2 or 3 impact unfairly – directly or indirectly – on any equality strands?

33 No. It is difficult to see how a change to the UCO would impact unfairly on equality - after all, the *Consultation* makes clear that "the planning system is about land use impacts and does not differentiate between different types of occupant" (paraA71). In fact, as is the case with provision for the homeless (Q7), changing the UCO would improve equality of opportunity. The present planning framework has allowed extreme social polarisation to take place in many university, coastal and market towns, contrary to national planning policy in PPS3. In these areas, the financial muscle of HMO landlords enables one type of household, one type of tenure, and one age-group to predominate. Single households are excluded, owner-occupation and social renting are excluded, and children and the elderly are excluded. A planning framework able to manage HMOs would be able to restore equal opportunity to these areas.

Q10. Would a change to the Use Classes Order reduce the supply of HMO accommodation in your area?

34 No. A change to the UCO need have no impact on the supply of HMO accommodation. The point about changing the UCO is that it would enable LPAs to manage supply in accordance with need and impact. Where there is over-supply, LPAs would be able to prevent further imbalance (since any change would not be retrospective, it would not actually reduce supply - but it would enable rebalancing over time). Where there is insufficient supply, LPAs could still adopt policies and practices of encouragement (as noted in Q6). Within any LPA's area, a new UCO would enable the LPA to actively set a target for the overall supply of HMOs, and to actively manage its distribution.

Q11. 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?

35 Probably not. Proposals to amend the UCO have arisen as a result of the acknowledged detrimental impact of concentrations of HMOs (Q1). Since the amendments will not be retrospective, they will only prevent further deterioration. They will not, of themselves, enable the restoration of housing diversity. If permission was required for a HMO to revert to C3 usage as a family dwellinghouse, this would in fact discourage such restoration - while on the contrary, the absence of such a requirement would make restoration easier. The National HMO Lobby recommends therefore that the GPDO be amended accordingly, in Schedule 2, Part 3, so that change of use from HMO to Class C3 becomes permitted development, whether from Class C4 or from *sui generis*. This ratchet effect is already operating in some other use classes. (If any LPA wanted to discourage reversion, it could apply for an Article 4 Direction.)

Q12. Would a change to the Use Classes Order as described in option 3 place a new burden on local planning authorities?

36 Definitely. Option 3 would not impact on LPAs which are not concerned about HMOs, since it effectively removes HMOs from the planning process. For those LPAs which are concerned, either to encourage or to discourage HMOs, there would be burdens arising from the increased difficulty in managing land use impacts (these are considered in response to Q13). For those LPAs which wish to discourage HMOs, there would be a double new burden. First, there would be the costs of implementing an Article 4 Direction, in order to regain planning control, over HMOs: these have been outlined in the answer to Q4 above (22), including preparing the application, participating in a Public Inquiry, consulting, notifying, and so on. Secondly, there would be a loss of fees: under the current regime, applicants pay a fee; it is the Lobby's understanding that under an Article 4 Direction, no application fees are payable, so the LPA would receive nothing to defray the costs of processing applications.

Q13. 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?

37 Very much so. Option 3 would have no impact on LPAs which have no concern at all about managing the land use impacts of HMOs. But these are likely to be few and far between. Of course, LPAs concerned to resist HMOs would be entirely emasculated, even more so than they are under the present planning framework. This does at least offer the theoretical possibility of control. But Option 3 removes this possibility entirely, unless and until the LPA is able to

introduce an Article 4 Direction; and the processing of a Direction is likely to take considerable time, even once the Option is adopted. For LPAs concerned to encourage HMOs, the lack of any planning control means that they would lose any leverage for encouragement. But all LPAs are likely to encounter one-off instances of proposals for HMO developments which may be entirely inappropriate in the local circumstances. In fact, paraA51 of the *Consultation* notes that “There is also a cost under this option in that all HMOs would have permitted development rights. This could incentivise the creation of larger HMOs in areas where there isn’t a more general problem.” Option 3 would remove any means of managing these.

Q14. 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?

38 Yes. As noted above, under Q4, there are many disincentives to LPAs introducing Article 4 Directions - not least of which would be the prospect of compensation claims from disappointed HMO developers. Indeed, such prospects are likely to be prohibitive, and on their own, enough to deter any LPA from starting down this route. If the compensation provisions included in Section 189 of the Planning Act 2008 reduce the threat of compensation, then indeed they should be applied to change of use between Class C3 Dwelling house and HMO. But this measure would be unlikely to make any significant difference.

Q15. How important would the risk of compensation be in the decision to use Article 4 directions under option 3?

39 The answers to Q4 and Q14 have already indicated that the potential compensation costs to LPAs of Option 3 would be prohibitive, and a decisive deterrent to using Article 4 Directions. Funding from central government is unlikely, especially in the current economic climate.

Q16. Would the extra certainty of greater control bring benefits that outweigh the burdens placed by the need to process more planning applications?

40 Yes, certainly. The Question evidently refers to Option 2, which alone provides ‘extra certainty of greater control.’ The *Consultation* makes clear that, in principle, “local planning authorities are assumed to have no additional costs given that the fees cover the administrative costs” (paraA36). If this is the case, then ‘the burdens placed by the need to process more planning applications’ are non-existent. Even if this is not in practice entirely the case, then the burdens of increased planning control over HMOs remain marginal.

41 On the other hand, the benefits of greater control are enormous. The benefits to be gained may be estimated by considering the costs which follow from unregulated concentrations of HMOs. Some of the impacts of HMO concentrations are readily costed, some impacts are measurable, but difficult to cost, and some of the effects are hard even to measure (see **Annex D**). Measurable costs include: increased demand, not simply for waste disposal, but also for the actual management of waste; increased action on rodent infestation; increased removal of fly-posting and graffiti; increased demand on police time to tackle reduced local security (as well as the cost of stolen property); economic loss as the local economy becomes a ‘hermetic resort economy’ (including loss of sales and of employment opportunities); increased cost of managing car parking; overall increased demands on public services, like cleansing, policing, housing, planning (in competition with the needs of other areas within the local authority). There are significant medium and long term impacts which may be measured, but not costed: degradation of houses and gardens, the impact of letting boards and security grilles, endemic low-level

antisocial behaviour. And there are impacts which are hard to measure, let alone cost - for instance, loss of community services in particular (schools especially, also clubs, classes, etc), and of community spirit (or social capital) in general. These last have knock-on effects: local and national government relies on the social capital of local communities to maintain and sustain those communities, at no public cost; when this is lost, government has to intervene, at enormous public cost.

42 There are valuation techniques for impacts which are 'beyond value'. One such is *avoidance value*, the cost of avoiding detrimental impact. In the case of HMO concentrations, this would include the time absorbed in attempting to mitigate their effects - the time of paid officers in local authorities and universities, for instance, and the time of unpaid volunteers (local residents, students). Another technique is *restoration value*, the cost of restoring detrimental impacts. In the case of HMO concentrations, this would include the cost of re-purchasing and restoring HMOs to more diverse usage, by single households, by owner-occupation and social renting. Such costs of course would run into £millions, and they mean that seizing the opportunity to regulate HMOs now is a justified and sustainable proportionate response.

Impact Assessment

Do you think that the impact assessment broadly captures the types and levels of costs associated with the policy options? If not why?

43 No, the impact assessment does not capture fully the costs associated with the policy options. The reasons vary. The costs of Option 1, Local Management, as summarised in the *Consultation* Table (p21) and parasA27-A31 (p27), are under-estimated in a number of ways.

- a) The Table assumes there are no transition costs. However, if good practice is to be disseminated, then mechanisms to do so must be established. The *Consultation* makes no proposals for these. In fact a number of such mechanisms have been adopted by the different stakeholders - publications (by Universities UK, by NUS, by the National HMO Lobby), conferences (see **Annex F**), networks. But all of these, and others, will need to be maintained and developed (for instance, a dedicated website, accessible to all parties). But of course, none of these are cost-free.
- b) ParasA28-A29 of the *Consultation* suggest “There could be some small additional costs for local authorities ... [and] ... for the university” (p22). Dedicated staff, liaison officers, targeted resources, are all noted in these paragraphs. The Table also notes stakeholder groups, development of housing & community strategies, landlord accreditation schemes. Several more practices could be added. In the Table, these are classed as ‘non-monetised costs’, and the text suggests the costs are ‘small’. However, if the staff time involved in these practices was realistically costed, the expense would be far from negligible (and no reference is made to the voluntary efforts of residents and students: if their time is recognised and valued, this too should be costed).
- c) Failing any tradition of such good practice in *non*-university towns, the on-going costs of HMO impacts there will continue.
- d) The full scale of the ‘problem under consideration’ in the Interventions & Options Table on p20 is under-estimated. As is noted in **04-07** above, by relying on the Rugg Review, the *Consultation* does not calculate effectively the full spread of the problems generated by concentrations HMOs. Nor does the *Consultation* really acknowledge the depths of these problems, especially their impact on community cohesion and sustainability. Not all of these are easy to cost, but the scale of the costs and some approaches are discussed in **41-42** above. Since Option 1 neglects many of these problems and their associated costs, this omission should be added to the debit side of the impact assessment of Option 1.
- e) Finally, as noted in paraA31, the Option “would not be able to prevent the clustering of HMOs” - that is, additional concentrations of HMOs, extending ‘the problem under consideration’ yet further.

44 The costs of Option 2, Use Classes Order, as summarised in the *Consultation* Table (p22) and parasA35-A42 (pp28-29), are over-estimated in a number of ways.

- a) In the Table, there should be no costs to the public purse. As is made clear in paraA36, “local planning authorities are assumed to have no additional costs given that the fees cover the administrative costs.” Costs to applicants are assumed to be £111m (paraA35). But the cost of individual applications is negligible (£335), readily recouped from the rental return on the landlord’s investment - if they have prepared an adequate business plan.
- b) The Table and parasA37-A38 also speculate that the Option “could result in a loss of HMOs stock.” However, if a landlord is deterred by a need for planning permission, it is likely that they would be one of those landlords whose bad practices prove so costly to the local authority.

- c) Paragraph A39 of the Consultation speculates that the Option “could also reduce flexibility in the privately rented sector.” However, the Rugg Review disagrees: it emphasises that most landlords operate within niche markets (Rugg, section 2.3)
- d) Other costs noted are unrealistic. Judgemental problems noted in paraA40 are already experienced under the present UCO; by introducing greater clarity of definition, Option 2 is likely to reduce these. The problem noted in paraA41 is addressed in para38 (Q8), **32** above. On-going management problems noted in paraA42 are costs which pertain in all of the Options.

45 The costs of Option 3, Article 4 Directions, as summarised in the *Consultation* Table (p23) and parasA48-A52 (p30), are under-estimated in a number of ways.

- a) The Table suggests that there are no transition costs, nor are these costs recognised on p30. But surely the LPA’s application for an Article 4 Direction is a transition cost? In fact, the costs in terms of time and resources for LPAs are considerable (Q12, **36** above).
- b) The loss of fees is noted in the Table and in paraA48. But the major omission from the assessment of Option 3 is the threat to the LPA of compensation costs. These are considered in parasA49-A50, but omitted from the Table. In fact, these are likely to be prohibitive, and undoubtedly “could be a disincentive for the local planning authority wishing to use an article 4 direction to control HMO development.”
- c) ParaA51 notes the potential costs to a LPA of losing any control at all over HMOs (see also Q13, **37** above). But the Table does not attempt to estimate these potential costs.

Do you think that the impact assessment broadly captures the types and levels of benefits associated with the policy options? If not why?

46 No. Again, the impact assessment does not adequately estimate the benefits associated with the policy options. Again, these vary between the three Options. The benefits of Option 1, Local Management, as summarised in the *Consultation* Table (p21) and parasA21-A26 (pp26-27), are over-estimated. It is not all clear in fact that they go beyond the ‘do nothing’ baseline identified in paraA20.

- a) The good practice that is already under way will (hopefully) continue.
- b) Where good practice has not been adopted, there is no reason to suppose a sudden change of attitude by the stakeholders concerned, whether local authorities or universities or others.
- c) And the Option offers nothing to address HMO problems in non-university towns.

47 The benefits of Option 2, Use Classes Order, as summarised in the *Consultation* Table (p22) and parasA32-A34 (p28), are given a distinctly muted estimate, and no attempt is made to monetise them. In fact, all the costs calculated in **41-42** above (Q16) would be saved in the long run. In the short term, they could be resisted in seaside towns and market towns, and in new university towns, or in existing towns where the university is expanding and/or the student population is migrating. In the longer term, even neighbourhoods currently suffering from concentrations of HMOs could see changes take place - and a revised UCO would enable the LPA to resist any reversion.

48 The benefits of Option 3, Article 4 Directions, as summarised in the *Consultation* Table (p23) and parasA43-A47 (pp29-30), are estimated to be the same as those for Option 2. But they depend entirely on the successful introduction and maintenance of Article 4 Directions.

Do you agree that the impact assessment reflects the main impacts that particular sectors and groups are likely to experience as a result of the policy options? If not why not?

49 No, the impact assessment does not reflect the main impacts of the policy options on particular sectors and groups. The ‘Specific impact tests’ fall into a number of groupings - commercial tests (parasA64-A66), well-being tests (parasA67-A70) and equality tests (parasA71-A77). The last two are not properly assessed.

50 Contrary to paraA67, HMO concentrations have major impacts on sustainable development. The government identifies eight criteria for sustainable communities (DEFRA 2009) - all of these are lost where HMOs congregate, and so any action to mitigate this effect (such as the present policy options) contributes to sustainable development.

- a) Active, inclusive and safe: the transience typical of HMOs undermines local cohesion.
- b) Well run: transience again leads to disengagement.
- c) Environmentally sensitive: HMO concentrations are typically marked by the squalid environment (see also **51** below).
- d) Well designed and built: the built and natural environment degrades when dominated by uncared-for HMOs.
- e) Well connected: fluctuating populations (in university towns) undermine public transport services.
- f) Thriving: HMOs in university towns result in ‘resort economies’.
- g) Well served: local services are either over-whelmed, or in some areas (university towns) lost altogether (schools).
- h) Fair for everyone: HMO-domination (by definition) excludes owner-occupation and social renting.

51 Contrary to paraA68, the most visible impact of HMOs is on the environment. Waste disposal is ill-managed, and can be overwhelming (in university towns, at the end of the academic year). Properties often suffer ill-designed alterations and extensions, and gardens are left to run wild. Street blight includes flyposting and graffiti, and the proliferation of letting boards and security grilles. Effective action on HMOs could address all these impacts.

52 Contrary to paraA70, HMOs commonly have detrimental impacts on health. On the one hand, poor waste disposal encourages rodent infestations. On the other, HMO lifestyles are commonly undisciplined, and characterised by alcohol and substance abuse. Again, HMO controls could mitigate these effects.

53 It is clear that “the planning system is about land use impacts and does not differentiate between different types of occupant.” (paraA71). Nevertheless, the present planning framework, specifically the UCO, has unintended consequences which do impact on different social groups. For instance, in accordance with equality policy, national planning policy promotes ‘housing mix’, that is, “key characteristics of a mixed community are a variety of housing, particularly in terms of tenure and price and a mix of different households such as families with children, single person households and older people” (PPS3, paragraph 20). However, the inability of the present UCO to manage HMO provision has led to whole neighbourhoods becoming dominated by the PRS in general and HMOs in particular. Contrary to paraA72, certain groups (students, migrants, young professionals) have benefited from this domination - to the exclusion of other groups. In these neighbourhoods, social polarisation has developed, excluding (for instance) single households, or social renting and owner-occupation, or children and the elderly. Reform of the UCO is essential in order to maintain housing mix.

54 Certainly, as indicated in paraA72, housing supply is affected by prolific development of HMOs. Many are first (if temporary) homes for young people leaving home. But a great many are actually used as second homes - for work (commuter crashpads) or for study (student shared houses). The use of houses for this purpose diminishes the supply of first homes for families, and reinforces housing inequality.

55 ParaA77 refers to the possible engagement of Article 1, Protection of Property, of the First Protocol of the Human Rights Act 1998. Many residents would argue that it certainly should be engaged. The Article begins, "Every person is entitled to the peaceful enjoyment of his possessions." Yet many residents who live among concentrations of HMOs find that this right is regularly abused. The lifestyles of occupants of HMOs (due to their numbers, youth, transience and lack of discipline) are such that neighbours are disturbed and unable to enjoy their homes in peace. Management of the distribution of HMOs is essential to preserve such rights.

Conclusion

56 None of the options proposed in the *Consultation* are *sufficient* to solve the problem of concentrations of HMOs. A much broader range of planning responses, as well as other responses, are needed.

- a) *Redirection of demand*: LPAs need planning policies to resist HMOs in areas of concentration, and encourage them elsewhere (there are examples in **Annex A**). Rugg (2000) indeed recommended local housing strategies: “a housing strategy should be integral to the expansion plans of every HEI, and comprise an analysis of likely impacts on the local rental market and consultation with local community groups” (p34).
- b) *Reduction of demand*: contrary to the advocates of the PRS, HMOs are not always an appropriate response to housing need. They may be appropriate for (say) young professionals. But social renting may be preferable for (say) benefit claimants. And purpose-built developments may be preferable for students and migrant workers (indeed, the use of family homes for temporary accommodation is an abuse of the housing stock). Proposals to encourage study from home (by waiving tuition fees) may also reduce demand for student HMOs (Curtis, 2009).
- c) *Restoration of neighbourhoods* is the hardest task, and will require local planning and housing strategies (for instance, commuted sums from Section 106 agreements on purpose-built developments could be channelled through Community Land Trusts to bring HMOs back into family use).

57 All of the options proposed in the *Consultation* are (to some degree) *necessary* to solve the problems of concentrations of HMOs.

- a) Option 1 is incapable of addressing the root cause of the problems. But while other measures are being introduced, the effects of HMO concentrations need to be managed. What are required are mechanisms to disseminate good practice.
- b) Option 2 is the only proposal which directly addresses the root cause of the problem, the development of concentrations of HMOs in the first place.
- c) Option 3 is frankly a red herring. But Article 4 Directions, removing developments permitted under Part 1 of Schedule 2 of the DPDO (‘Development within the curtilage of a dwellinghouse’) could be useful in areas of HMO concentrations to resist the deleterious impacts of HMO conversions.

58 Therefore, in the light of the responses above to Communities & Local Government’s consultation on *Houses in Multiple Occupation and possible planning responses*, the National HMO Lobby formally requests CLG to adopt the proposed Option Two, and to take the following actions:

- a) introduce into the Town & Country Planning (Use Classes) Order 1987 a definition of HMO the same as that in the Housing Act 2004;
- b) remove HMOs from Use Class C3, classing them either as a new Use Class C4 or explicitly as *sui generis* in paragraph 3(6) of the Order;
- c) add a new class of permitted development of HMO to Class C3 in Part 3 of Schedule 2 of the Town & Country Planning (General Permitted Development) Order 1995.

Annex A Local HMO Plans

Local planning authorities (LPAs) around the country have developed local HMO plans – either to address the problem of concentrations of HMOs in general, or more particularly, the demand for student housing. Some have been developed under the regime of Local Plans and Unitary Development Plans (UDPs), and a few are adopted. But many LPAs are taking advantage of the new regime of Local Development Frameworks (LDFs). Some policies take the form of Development Plan Documents (DPDs), other policies are being introduced as Supplementary Planning Documents (SPDs). The list below is not complete.

ENGLAND

Bath & North East Somerset *Local Plan* Revised Deposit 2003 (Policy HG.12 Development for the use of buildings for residential purposes; and Policy HG.17 Development of student accommodation)

Birmingham City Council *Selly Oak Local Plan* Policy 11.22 'Area of Restraint (Student Accommodation)' adopted 2001

City of **Durham** LDF, *Housing Development Plan Document* (Issue 8, Provision of Balanced Communities) 2005, consulting

Leeds City Council, *Leeds UDP Review*, Policy H15 'Area of Housing Mix', adopted 19 July 2006

North East **Lincolnshire** Council, SPG02 *Conversion of Properties to Flats and Houses in Multiple Occupation*, adopted 2002

Loughborough Charnwood LDF, *Student Housing Provision in Loughborough SPD*, 2005, consulting Thanet District Council, **Margate** *Cliftonville West Renewal Area: HMO consultation*, October 2006

Newcastle City Council, *Local Development Framework Supplementary Planning Document on Shared Housing*, February 2008; *Interim Planning Guidance on Purpose Built Student Accommodation*, November 2007

Nottingham City Council, *Building Balanced Communities*, SPD, adopted March 2006, re-issued March 2007

Oxford City Council, *Oxford Local Plan: Section 7 Housing Policies* (Policies HS.13-HS.15) adopted 2005

Reading Borough Council, Supplementary Planning Guidance *House Conversions & Houses in Multiple Occupation* adopted 22 September 2003

London Borough of **Richmond upon Thames**, *Unitary Development Plan*, Policy HSG15 'Non Self-Contained Accommodation' [ie HMOs], 2005

Sheffield City Council, *Sheffield Development Framework, Core Strategy: Housing Strategy* (Issue H6 Student Housing), 2005, consulting

City of **York** *Local Plan*, Chapter 7 Housing (Policy H8 Conversions) approved by Council 2005

NORTHERN IRELAND

Belfast Planning Service (NI) *Houses in Multiple Occupation (HMOs): Subject Plan for Belfast City Council Area 2015* adopted 15 December 2008

Coleraine Planning Service (NI) *Coleraine Borough HMO Subject Plan 2016: Issues paper* April 2006, consulting

SCOTLAND

Dundee City Council, Supplementary Planning Guidance *Houses in Multiple Occupation* November 2006

Glasgow City Council *City Plan* Policy RES 13 'Multiple Occupancy' adopted 2004; City Plan 2 Consultative Draft March 2006 reviews Policy RES 13

St Andrews Fife Council *Fife Development Plan* Policy H6 'Houses in Multiple Occupation', 2005, consulting

Annex B Rugg Reviewed

Extracts from DP Smith, 'The real geographies of studentification', paper presented to RTPI workshop, Brighton, 22 June 2009

1. Introduction

Despite the consensus of opinion, a recent government-commissioned report (Rugg and Rhodes, 2008) asserts: 'the limited nature of the problem [studentification]' (p.100) has been exaggerated by well-organised lobbying groups. Contrary to the majority of current political (DCLG, 2008), policy (e.g. Durham City Council, 2007), academic (e.g. Hubbard, 2008) and media discourses (The Guardian, 2008a) on student housing, and town/gown relations (e.g. UniversitiesUK, 2005), Rugg and Rhodes analysis of studentification reveals a piecemeal process of change, arguing that 'intensive student habitation is not common' (p. xxi). In this paper, I challenge this narrow representation of studentification, asserting that Rugg and Rhodes' analysis of the scale of studentification (they use the term 'intensive student habitation') is methodologically flawed; based on out-dated data, and a limited methodology.

4. The Rugg and Rhodes review of the private rented sector

The geographies of private rented student housing affect the wider operation of the private rented sector. Indeed, as Rugg *et al.* (2002: 289) note in previous research: 'student demand affects all aspects of the local housing market'.

This is particularly important given the deeper penetration of students into the private rented sector. King Sturge (2008) reveal that 730,000 students (51% of total student population) are accommodated within shared housing in the private rented housing sector in 2008 (Rugg and Rhodes (2008) show the total 2,611,000 private rented dwellings in 2006). Given the high proportion of students residing in the private rented sector, it is therefore imperative that any problematic issues of private rented student housing are fully acknowledged and addressed, and that the residential geographies of students are represented in accurate and meaningful ways; which the Rugg and Rhodes report unfortunately fails to deliver.

5. A narrow representation of studentification?

First, by basing their analyses on the incidence of households with a student Household Reference Person (HRP), Rugg and Rhodes construct a partial representation of the scale of high-density, student populations in local neighbourhoods. This will mask the vast majority of students living in high concentrations, such as students co-residing with a student HRP, or students co-residing with a non-student HRP.

Second, the methodology employed by Rugg and Rhodes' is further limited by the use of census wards as the geographical unit of analysis. This geographic resolution tends to 'hide' localised concentrations of students; despite Rugg and Rhodes acknowledging that: 'this kind of problem can evidently be felt very acutely at street by street or neighbourhood level, but is clearly not a widespread issue' (p.99).

With this in mind, a micro-geographic perspective of studentification is essential, and the use of census data at Lower Super Output Areas (LSOA) is imperative, since this provides information, on average, for spatial areas with 1,500 residents (Office for National Statistics, 2008a), compared to electoral wards which include 5,500 individuals on average, and range from 100 to 30,000 individuals (Office for National Statistics, 2008b).

6. The 'real' geographies of studentification in 2001

Table 1 shows that there are LSOAs from 15 university towns and cities within the top 20 highest concentrations of student populations in England and Wales at LSOA.

Further analyses of 2001 census data reveal 687 LSOAs with a student population of 20% or more in England and Wales. This cut-off point was the measure identified by Berube (2005:11),

to define ‘student-heavy wards ... due to studentification’. It is also noteworthy that there were a further 1,287 LSOAs with a student population of between 10-19% in 2001. It is a plausible hypothesis that the concentration of students in many of these latter LSOAs will have increased since 2001, as student populations have expanded (see next section).

Further analyses show that there were a total of 47 towns and cities with one or more LSOAs with a student population of 50% or more.

To further demonstrate the wide-scale of studentification, Table 2 provides a breakdown of the total number of LSOAs in university towns and cities with a student population of between 25-49% and 50-100%. It can be seen that there are 28 English university towns and cities with four or more LSOAs with student populations of 25% or more.

7. Exploring the post-2001 geographies of studentification

As Savills (2008) note, the total student population has expanded by 31% over the last decade, and currently totals 2.34 million. Crucially, Rugg and Rhodes (2008) interpretation of intensive student habitation does not take into account these changing factors, which will have transformed the residential geographies of students in profound ways.

Overall, the total student population in the core cities of England increased by 52,400 students (+17.3%) from 250,145 to 302,545 students between 2000-01 and 2006-07. Although increases are common across all eight core cities, there is some variance, with rises being most pronounced in Nottingham (+22.7%), Newcastle (+22.5%), Birmingham (+21.5%), Leeds (21.3%), and, to a lesser extent, in Liverpool (+14.9%), Manchester (+13.7%), Bristol (+12.8%), and Sheffield (+9.9%).

Student populations have increased in the most dramatic ways in many of the smaller English university towns and cities since 2001. Figure 2 demonstrates how the total full-time undergraduate student populations increased in between 2000-01 and 2006-07, in a number of case studies. ... Strikingly, increases were most marked in Bournemouth (+47.1%), Norwich (+36.8%), Bath (+30.0%), Plymouth (+29.2%), Canterbury (+25.3%), York (+23.9%), Reading (+22.6%), Durham (+21.4%), Loughborough (+16.1%), Brighton and Hove (+12.7%) and Southampton (+8.2%).

Indeed, when couched within broader societal changes, the general shortcomings of using the 2001 census data are emphasised. For example, Dorling *et al.*'s. (2008) recent study of the changing geographies of the UK reveals that ‘demographic segregation’ is unfolding in the UK, with ‘areas becoming more segregated, most quickly from 2001 to 2006’ (p.2). Such analyses clearly emphasise the pitfalls of using 2001 GB census to understand the current scale of studentification in 2008, or similar processes of change which are giving rise to a more segregated society.

Arguably, pinning down the geographies of studentification in accurate ways is important for formulating effective public policies to mitigate detrimental societal conditions, such as the breakdown of community cohesion, the fragmentation and disintegration of local neighbourhoods, and social exclusion. As Dorling *et al.* note: ‘today communities tend to be more geographically polarised: we tend to now more live alongside people with similar age, economic and lifestyle status’ (p. 16). Processes of studentification are inherently inter-woven here into these pressing, broader societal patterns of change. The dismissal of studentification as a widespread process of change may have serious consequences for the general future health and well-being of many local communities and neighbourhoods. It may also lead to the disempowerment of local residents from articulating their views on the locally important issues of studentification, which are clearly voiced to local and national political actors in many university towns and cities.

Annex C Appeal Decision



Appeal Decisions

Hearing held and site visit made on 10 March 2005

by **Paul Taylor BSc (Hons) MRTPI**

an Inspector appointed by the First Secretary of State

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Date

22 MAR 2005

Appeal Ref: APP/P4605/C/04/1163187

6 Bournbrook Road, Selly Oak, Birmingham B29 7BH

3669

- This appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- It is made by Mr A J Gnyla against an enforcement notice issued by Birmingham City Council.
- The Council's reference is ENF/1458/03/S.
- The notice was issued on 27 August 2004. The breach of planning control as alleged in the notice is, without planning permission, the making of a material change of use of the premises to use as a house in multiple occupation.
- The requirement of the notice is to cease use of the premises for multiple occupation.
- The period for compliance with the requirement is 2 months.
- The appeal was made on the grounds set out in section 174(2) (a) (b) and (c) of the Town and Country Planning Act 1990 as amended. However, at the Hearing the appeal on ground (a) was withdrawn.

Summary of Decision: The appeal is allowed and the enforcement notice is quashed.

The Notice alleging use as a House in Multiple Occupation: Ground (b)

1. Having regard to the Housing Act 1985 and to Circular 13/87, 'Changes of use of buildings and other land: The Town and Country Planning (Use Classes) Order 1987' I consider that, for town planning purposes, a house in multiple occupation (HMO) is a house which is occupied by persons who do not live together as a single household.
2. The appeal property is currently occupied by 6 University students. Prior to the issue of the enforcement notice it was occupied by 7 students. The appellant maintains that the students live together as a single household and that, as a matter of fact, the property is not an HMO. The Council maintain that the students do not live together as a single household and that the property is an HMO.
3. There is no definition of what "living together as a single household" means. However, it seems to me that the people living together as a single household experience a high degree of sharing and community of interest, whereas people not living together as a single household retain a high degree of independence and anonymity from each other. The distinction between the two is not black and white. It is necessary to look at a wide range of indicators in each individual case.

4. I consider that, in this particular case, the following indicators suggest that the students concerned do live together as a single household:
 - (a) The property has 1 fairly large kitchen for use by all the occupiers. None of the bedrooms have their own kitchen facilities. The kitchen has a single gas cooker and a single washing machine and a single tumble dryer.
 - (b) It has a fairly large comfortable TV lounge with sofas for up to 8 people around coffee tables.
 - (c) It has one main bathroom and a separate shower room for use by all the occupiers. None of the bedrooms have washbasins or ensuite facilities.
 - (d) It has one general utility room for use by the occupiers.
 - (e) There is one front door, with one doorbell and one letterbox.
 - (f) There is one electricity meter and one gas meter. The students have a collective responsibility for paying bills.
 - (g) The students are third-year students now in their second year of living together at the appeal property, indicating a degree of stability and cohesiveness.
 - (h) The property is let to the students on a group basis, via a head lessee. The students allocate rooms between themselves. They have a collective responsibility for paying rent, each paying the same amount. They also have a collective responsibility for looking after the property. The property is not let to individual tenants, at individual rates, for each student in each room.
5. These indicators all suggest a fairly high degree of sharing and community of interest between the students, rather than a high degree of independence and anonymity, supporting a conclusion that the property is occupied by persons living together as a single household.
6. I consider that, in this particular case, there are very few indicators suggesting that the students concerned do not live together as a single household. Each bedroom can, it is true, be locked and that does suggest a degree of independence. However, the students rely on having computer equipment in their rooms and there may well be an understandable concern for security. In this particular case, I do not consider that the fact that the bedroom doors can be locked outweighs all the other indicators listed above.
7. The Council also maintain that it is significant that the students have a different lifestyle to that of a single family household. They are, the Council say, individuals, having sole "ownership" of their own bedrooms, which are likely to be normally locked. Furthermore they are absent from the property for long holiday periods and are likely to move on after 1 or 2 years.
8. There is, in fact, no specific evidence about the actual lifestyle of the individuals concerned. I cannot, therefore, say whether their particular lifestyle is similar to that of a single family household or not. There is, however, considerable variety in the lifestyles of normal single family households and I do not consider that the fact that the occupiers concerned are students determines whether or not the property is an HMO. It is relevant that Circular 13/87 indicates that Class C3 of the Use Classes Order, Dwellinghouses, "includes not only families...but also other groups of people such as students, not necessarily related to each other, who choose to live on a communal basis as a single household". This appears to me to be explicit recognition that groups of students can live together as a single household without there being a change of use to an HMO.
9. The provisions of Class C3 mean that a dwellinghouse can be used by people living together as a family or by up to 6 residents living together as a single household without 'development' being involved. It does not, however, automatically follow that if 7 residents live together as a single household the property concerned is an HMO. Nor does it automatically follow that 7 residents living together as a single household constitutes a material change of use.
10. For the reasons given above and having regard to all other matters raised, including other cases referred to by the parties, the appeal succeeds on ground (b). Accordingly, the enforcement notice will be quashed. In these circumstances the appeal on ground (c) does not need to be considered.

Annex D Costing Studentification

Extract from National HMO Lobby *Accounting for Sustainability* January 2006, a commentary on Higher Education Partnership for Sustainability, *Accounting for Sustainability: Guidance for Higher Education Institutions* (Forum for the Future, 2003)

4 Costing Some of the impacts of a HEI are readily costed (such as local cleansing costs). Some impacts are measurable, but difficult to cost (such as burglary rates). And some of the effects are hard even to measure (such as the loss of community spirit).

4.1 The *increase in problems* of a community (3.1.1 above) are mostly tangible, and therefore mostly readily measured. These impacts comprise the following.

- i. *waste* increase: problems of normal waste disposal, of recycling, of large waste, of street cleansing, of garden clearing, and so on; Refuse and Highways Departments could provide cleansing costs for most of these.
- ii. *degradation* increase: both neglect of houses and their gardens, and also loss of character through inappropriate development of buildings and hard-surfacing of gardens; a formula might be devised for the reparation of the former, but the latter is hard to measure, let alone cost.
- iii. *street blight* increase: the impact of letting boards and security grilles, of flyposting and graffiti; removal of the latter can be costed, but again, the impact of the former on the character of the area is hard to measure (as is taxi disturbance, another blight on the street).
Note on (i-iii): the costs of tackling increased squalor include not only the investment of public resources, but also the voluntary (unpaid) efforts of both residents and students.
- iv. *antisocial behaviour* increase: endemic low-level ASB, like noise nuisance, minor vandalism and evacuation (rather than serious ASB); the effect is all too tangible, it can be monitored, but it is hard to cost.
- v. *crime* increase: primarily burglary, which is measured by crime statistics, and presumably could be costed, both in terms of police time and of property stolen.
- vi. *insurance* increase: the insurance industry could presumably provide data on increased premiums for houses, contents and vehicles in specified postcodes.
- vii. *retail* distortion: orientation towards a very specific market, manifest in the particular range of lines in shops, and the range of retail outlets (especially increased numbers of pubs, take-aways and letting agencies); the impact of the market is aggravated when rent rises force out other enterprises.
- viii. *market* fluctuation: enormous fluctuation between heavy demand during term, and minimal demand during vacation.
- ix. *employment* casualisation: local employment becoming increasingly seasonal (term) and part-time (evening).
Note on (vii-ix): such local economies are effectively 'resort economies', with a number of peculiar characteristics: they are 'hermetic' (both patronised and serviced almost exclusively by the student population); they depend on a continuous externally supplied market; and their profits are largely exported (rather than locally circulated). This entails a significant cost to the *local* economy.
- x. *parking* increase: car use is measurable; in Leeds, one study has shown that car ownership in student households is two-and-a-half times the norm for the city. This raises health & safety issues (obstruction of pavements for pedestrians, and of access by cleansing and emergency vehicles), as well as communication problems (access by residents, and the passage of public transport).
- xi. *demand* increase: this includes not only the direct costs of disproportionate demands on public services like cleansing and policing, housing and planning, but also indirectly the drain of resources away from provision in other areas[and neither students nor landlords pay Council Tax or Business Tax].

4.2 The *decline of the community* (3.1.2 above) is quite intangible, and not readily measured at all. As *Accounting for Sustainability* suggests (p30) such matters are perhaps "beyond value". This impact comprises the following issues.

- xii. *numbers* decline: student demand gives rise to high property prices and low amenity (4.1), encouraging emigration and making immigration almost impossible, with the result that there are

- fewer elders (retaining past memories), fewer adults (present activists) and fewer children (the community's future).
- xiii. *networks* decline: most owners and occupiers are absentees (hence disengaged), the young and the old especially are isolated (losing their peers), and the neighbourhood loses its social capital or 'community spirit' (its social networks, social norms and social sanctions).
 - xiv. *morale* declines: deep and rapid changes are felt acutely: the population imbalance itself is stressful (public oppression, private isolation), the declining amenity is alienating (fear of crime, revulsion from squalor, exclusion by the economy), and residents feel anger and despair at their disempowerment.
 - xv. *schools* decline: the services which support the community (especially primary schools, also colleges, evening classes, churches, clubs for the young, etc) decline and even close.

4.3 Most impacts in 4.1 can be measured, and many costed. A few cannot – and nor can any in 4.2. These may be “beyond value” (monetary, at least). However, there are valuation techniques available. The United Nations recommends *avoidance* and *restoration* values (*Accounting for Sustainability*, p30).

4.3.1 Avoidance values These are what it would cost (or does cost) to avoid a detrimental impact (for instance, avoiding carbon dioxide emissions). The principal cost that can be identified in avoiding negative impacts by HEIs is the *time* this soaks up. A principal element of this time is the hours dedicated by local community campaigners to organising campaigns, organising meetings, attending meetings, circulating information, writing objections, responding to consultations, and so on. (Leeds HMO Lobby is an example, but its efforts are duplicated up and down the country.) Some HEIs employ Community Liaison Officers (with salaries); whether they do or not, other staff are drawn into dialogue, negotiation and planning. (The University of Leeds has a Community Projects Officer, a Neighbourhood Helpline, a *Housing Strategy*, and is consulting on a *Community Strategy*.) Local authorities bear responsibility for resolving local problems: members and officers devote time to addressing these; in addition, many authorities have conducted studies of the impact of HEIs locally, and have established fora to develop local strategies. (Leeds City Council has established a Student Housing Project Group, devised a *Shared Housing Action Plan*, convened a Community & HE Forum, and so on.) Student volunteers spend time on the effects of the impact. (In Leeds, they have set up the LS6 Project.) At one level, much of this time is spent fire-fighting. But at a strategic level, it is invested in attempting to resolve – hence avoid – the deeper issues. (In addition to local actions, national initiatives also absorb effort, like the National HMO Lobby, the Unipol conference *Students, Housing & Community*, and UUK's *Students & Community* research [which reportedly cost £30,000].) This time could be calculated and costed.

4.3.2 Restoration values These consist of what it would cost to restore an unsustainable situation (for instance, restoring contaminated land). In the case of the negative impacts of HEIs (and especially the decline of communities), essentially these arise from demographic imbalance (the substitution of a stable, general local population by a transient, seasonal and very particular population). This comes about largely by the change of use of family homes into student HMOs. In a free market, this is impossible to avoid: groups of students are prepared to pay upwards of £50 per week for a room each; with this return in mind, landlords are able to far outbid family purchasers, when homes come onto the market. House prices are rapidly inflated. The incentive of these prices, and the disincentive of declining amenity, encourages further change of use. The restoration cost of the fundamental sustainability problems of HEIs would be the cost of re-purchasing houses, to restore them to family occupation. The National HMO Lobby estimates that the tipping-point for sustainability problems for a community comes when students exceed 20% of the population. Since the average occupancy of HMOs is twice that of the average single household, this is approximately equivalent to a tipping-point of 10% of HMOs in an area. (This is also the normal proportion of privately rented housing in a neighbourhood.) In principle therefore the restoration value of an unsustainable community is the cost of restoring the housing balance. [Leeds HMO Lobby puts the restoration value of Headingley at somewhere near a half £billion.]

Annex E Conferences and Other Meetings

London 2000: Unipol Student Homes, *Students in the Community*, conference, RIBA, London, 27 October 2000

Leeds 2001: Leeds NW constituency, meeting with Minister for Housing, Nick Raynsford MP, Leeds, 22 Feb 2001

Leeds 2002: Leeds NW constituency, meeting with Minister for Housing, Lord Falconer, Leeds, 15 Feb 2002

Ulster 2003: University of Ulster *Town & Gown: Students Living in Local Communities* conference, Jordanstown & Coleraine, Ulster, 11-12 June 2003

London 2004: Nottingham South constituency, delegation to Minister for Housing, Keith Hill MP, Westminster, 12 Feb 2004

Leeds 2004: Unipol Student Homes, *Students, Housing & Community* conference, Leeds, 22 October 2004

London 2004: Universities UK, *The Role of the University in the Community* conference, London, 2 Nov 2004

London 2006: Universities UK *The Engagement of Students and Higher Education Institutions with their Communities* conference, London, 25 Jan 2006

Nottingham 2006: Unipol Student Homes, *Students & Communities Revisited*, conference, Nottingham, 12 May 2006

London 2006: Universities UK, *Students & communities living in harmony?* Breakfast Seminar, House of Commons, 27 June 2006

Loughborough 2006: Phil Woolas MP, Minister for Local Government & Community Cohesion, visit to Loughborough, 27 Oct 2006

London 2006: Parliamentary University Group, *Student Accommodation*, meeting, House of Lords, 15 November 2006

Nottingham 2007: Councillors Campaign for Balanced Communities *University Towns & Cities* Inaugural Conference, Nottingham, 1 February 2007

London 2007: Loughborough constituency, delegation to Minister for Local Government, London, 8 May 2007

London 2007: Nottingham City Council, delegation to CLG, London, 18 June 2007

Norwich 2007: Norwich City Council & University of East Anglia *Studentification: the next steps* conference, Norwich, 19 June 2007

London 2007: APPG, 'The National HMO Lobby', *Inaugural Meeting*, Westminster, 27 June 2007

London 2007: Universities UK *Uni & the Community* conference, London, 25 October 2007

London 2008: Nottingham City Council, delegation to the Minister for Planning, Iain Wright MP, London, 5 February 2008

Nottingham 2008: Councillors Campaign for Balanced Communities *Agenda for Change* conference, Nottingham, 13 March 2008

London 2008: Department for Communities & Local Government *HMOs Seminar* Eland House, London, 9 April 2008

Loughborough/Nottingham 2008: Iain Wright MP, Minister for Planning, visit to Loughborough and Nottingham, 13 May 2008

Leeds 2008: NUS *Students in the Community: Beyond the Campus* conference, Leeds, 9 June 2008

Brighton 2008: University of Brighton *Universities & Community Liaison* conference, Brighton, 11-12 August 2008

Leeds 2008: Unipol Student Homes *Student Housing: The Market, The Community and What Students' Unions Can Do* conference, Leeds, 12-14 August 2008

Loughborough 2008: Iain Wright MP, Minister for Planning, visit to Loughborough, 17 December 2008

London 2009: BURA Seaside Network *Turning the tide of HMOs in coastal towns* reception, Westminster, 27 January 2009

London 2009: Unipol Student Homes, *The Rugg Review and Its Relevance to Students*, conference, London, 28 January 2009

Southampton 2009: Southampton Test constituency, meeting with Iain Wright MP, Minister for Planning, Southampton, 17 March 2009

Birmingham 2009: NUS *Students in the Community: Recent developments in student-led community partnerships* conference, Birmingham, 11 June 2009

Leeds 2009: Unipol *Student Housing, the Market, the Community and what Student Unions can do* conference, Leeds, 18-20 August 2009

Brighton 2009: University of Brighton, conference on *Studentification* (forthcoming), Brighton, 17-18 September 2009

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