

Houses in Multiple Occupation & Article 4 Directions

Notes of Meeting convened by RTPI-CIH Planning for Housing Network Tuesday 10th August at RTPI Offices

From the introductions the following were noted:

- No-one was aware of any experience of the use of Article 4 directions other than for heritage related controls; awareness that Regional Offices have not supported widened applications of Article 4s
- National policy recognises that the impact of concentrations of HMOs can be significant and require attention
- HMOs and their housing value vary significantly by location – seaside HMOs are different from student HMOs which are often different again from those in areas 'in transition'; some are very public sector resource-intensive
- HMO areas are fluid, not static, and Article 4 directions are rigid in nature
- There is some private sector landlord support for retaining the status quo as a planning permission transparently legitimises the HMO use of a building as appropriate
- Many urban authorities had explored or were exploring the use of a whole authority – or at least all-residential-areas - Article 4 direction; these authorities would wish their local powers to be effective at exactly the same time as the planning rules change, but are aware of the following constraints that make such a step improbable:
 - An Article 4 direction can only be justified *after* the change in the planning rules has been effected, but at that juncture all the non-authorized HMOs will have been taken beyond planning control
 - Compensation demands are impossible to measure accurately, there is very little case law on which to draw, and unscrupulous agents may seek to exploit the opportunity for speculative applications with compensation as their reward
 - Financial evaluations of short-term costs against long term benefits are problematic in the current, challenging economic climate
 - In Leeds, for example, given that the number of properties which would need to be surveyed for an Article 4 direction could be expected to total a minimum of around 50,000, this would be a substantial undertaking likely to lead to an officer cost running into several hundreds of thousands of pounds
 - The criteria for sound Article 4 declarations in this new set of circumstances are unclear and therefore open to challenge

The meeting then looked at what might be required to remove or acceptably reduce these obstacles to the implementation of the Minister's stated intention. The following were identified:

- There is little chance of doing anything openly and honestly with communities against the tight timetable presently set; transitional measures and an appropriate timescale for them were needed
- Immediate revisiting of the current guidance Circular on the use of Article 4 directions is needed making it appropriate to entirely new purposes: the current guidance is focused on developments that make physical changes to the character or appearance of a place, rather than less tangible changes of use; applying Article 4 directions to HMOs may be less about the character of an area and more about effecting community aspirations or exercising control to benefit local housing supply
- Government to sanction a substantial measure of local discretion in the local justification for the use of Article 4 Directions, limiting requirements to indicative content for a local approval report, eg
 - Community view (from public meetings, level of complaints, perhaps a local referendum)
 - Direction from existing approved planning policies
 - Direction from other approved local strategies eg private sector housing strategies
 - Assessment of impact on housing supply, including loss of family housing
 - Multi-agency assessment of relevant 'harms' eg ASB, breaches of HMO licences, car parking, etc
 - Multi-agency assessment of impact of measures taken to date
- Create an effective mechanism for Article 4 Directions to be put in place *immediately before* the change in planning rules, so that non-approved uses at the date of changeover do not become 'approved' by default
- Government to take some responsibility for the compensation claims arising – since it is the Government change of rules that have given rise to the potential for claims

The overall message from the event was that the Institute's position remained that the regime introduced in April 2010, perhaps combined with the use of Local Development Orders in some places, is fit for purpose and gives communities the greatest opportunity to manage HMOs in their areas. However, given the clarity of the Minister's intentions, the group wanted to respond positively by discussing the proposals as they stand in detail in order to identify any pitfalls or unintended consequences in advance and make recommendations on how these might be overcome. A key conclusion is that this requires more time and more dialogue to get right.