

**SOUTHAMPTON CITY COUNCIL SCRUTINY PANEL INQUIRY
MAINTAINING BALANCED NEIGHBOURHOODS THROUGH PLANNING
VIEWS OF HIGHFIELD RESIDENTS ASSOCIATION**

The Highfield Residents Association (HRA) welcomes the opportunity to comment on two of the main issues before the Scrutiny Panel: Houses in Multiple Occupation (HMOs) and planning enforcement. The Association's views are shared and supported by the 20 residents' associations that belong to or are associated with the North Southampton Community Forum. They are based on extensive experience of planning and environment issues going back many years.

SUMMARY

Whilst HRA welcomes the measures that have been taken to control HMOs, these are insufficient to produce balanced neighbourhoods. HRA would like to see 10 per cent as the absolute limit on HMO development, ward by ward across the City. Failing that, we would like to see the radius to which the present 10 per cent threshold applies extended from the present 40 metres to 100 metres. Given that students represent the largest single group of tenants, there needs to be much greater university engagement in the issue. HRA would also like to see much greater effort expended on enforcement.

HMOs

It is recognised that the challenge is to reconcile housing demand within the wider market area of south Hampshire and beyond with the maintenance of a balanced and mixed community in the City and its various parts. The policy adopted by the Council, and reflected in the SPD, is to control concentrations of HMOs, as well as to deal with the associated detriments to things like safety, health, agents' boards, etc, through licensing. Whilst these measures are beginning to have some impact, we believe that, bearing in mind policy and practice elsewhere, the overriding objective of sustainability, and inspectors' judgements in a number of recent planning appeals, a more restrictive approach now needs to be taken. We also believe that the Council should be less willing to accept the consequences of development restrictions in Hampshire that are pushing more people to live in lower-cost areas of higher density. In the longer term, and absent any progress on this, there must be a question as to whether the 'spreading the pain' approach implicit in current policies is the right one if we truly wish to have a city with a genuinely diverse set of housing provision. There is also the issue of the poor living conditions endured by those family households in existing areas where the proportion of HMOs is well above what is deemed to be acceptable elsewhere.

As a further preliminary point, it would greatly help if the Council had more accurate and up to date statistics, since without these it is impossible to make any forecasts of likely future provision. Since the largest group of HMO tenants are higher education students, it should be possible to obtain this information from the two universities who have to produce it for their own purposes. In the meantime, and lacking a comprehensive and authoritative survey, the Council should be less unwilling to accept residents' information, at least until the licensing scheme is fully in operation and found to be effective in the areas that it covers.

Finally, it needs to be borne in mind that the SPD is a non-statutory document that has to be applied within the context of the statutory Local Plan with its appropriate emphasis on the importance of maintaining and enhancing the character of the areas to which it relates.

Changes to the SPD

In considering possible changes to the SPD, we believe that particular weight should be given to inspectors' appeal judgements since the policy was adopted. These have all supported the preservation of the family residential character in the areas concerned. Where there have been no or few HMOs, appeals have been refused in principle because of the harm they would do to the area (there has also been a local Panel refusal). Where HMOs already exist (at or above 10 per cent), proposals to increase from 6 occupants (C4 to SG) have been dismissed on appeal because of the additional harm to the character of the area and/or neighbours' living conditions.

These judgements recognise that even a single HMO can change the character of an area and have a disastrous impact on neighbouring families and the local community, as we can easily attest. Most importantly, they call into question the principle of 'spreading the pain' that underlies the SPD. They suggest that instead of the 10 per cent being used as a **threshold** or 'tipping point' in relation to each individual **application site**, it should be treated as an **absolute limit** in relation to each **ward**. This would also be in accordance with the guidance of the Royal Town Planning Institute, which has found that HMOs have a particularly deleterious impact in university cities and coastal towns.

It should be borne in mind that 10 per cent is the threshold used in many other comparable cities, including Portsmouth and Bournemouth, and that even 10 per cent implies that more than 20 per cent of the City's population will be transient. If we are to end up with 20 per cent overall, as is possible unless present policies are changed, it implies that more than a third of the City's population (35 per cent) will be living in shared accommodation (this calculation is based on an average occupancy of 5 persons for each HMO, and 2.4 persons for each non-HMO). This is surely fatal to any realistic concept of balanced and sustainable communities throughout the City.

If the 10 per cent is not to be an absolute limit for each ward, which would be our strong preference for the reasons given, then there needs to be a different and more restrictive approach to how it is operated in future in relation to each individual application site. In particular, the present 40 metre radius does not allow for the situation, as in Pointout Close in West Bassett, where there are significant numbers of HMOs just outside the 40 metre zone even though the specific site is under 10 per cent.

We therefore propose that a two-tier approach be adopted. In the first instance, a 100 metre test would be applied. If this found a concentration of more than 10 per cent, the application would be refused. If it was less than 10 per cent, the present 40 metre radius would remain the test. If the 10 per cent threshold was already met, the application would be refused as contrary to policy.

There are a number of further changes we would like to see. Where an application site is adjacent to a family dwelling and where there is an existing approved HMO on the other side ('sandwiching'), we would like to see planning permission refused as a matter of course. The Council also needs to ensure that HMOs cannot be created through 'back door' means such as the conversion of houses into flats, or extensions, without planning permission. We would like the Council to encourage the construction of purpose-built dwellings wherever possible. We would also like to see a wider distribution of notifications: we are aware of cases where the notification of an application has gone to a neighbouring HMO but not to nearby family properties. We would also like to see action taken against letting boards, through a Direction

under the Town and Country Planning (Control of Advertisements) Regulations 1992 to remove the benefit of ‘deemed consent’, as has been done in Nottingham and Brighton.

We recognise that the demand for rented accommodation has many components. Nevertheless, and as already noted, higher education students are the largest single group of HMO tenants, and Southampton already has one of the highest ratios of students to local population in the country. It is therefore for consideration whether HMOs intended to be let to students should not be distinguished, and treated even more restrictively. This is on the basis that students are by definition highly transient and less likely to integrate into a neighbourhood. The rate of ‘churn’ also makes preventative and enforcement action harder. The Council Tax register could be used to identify the properties concerned.

In any case, the Association considers that a university’s intentions for housing its students should be a major factor in determining any future applications to develop any **new** academic or administrative accommodation, as is already the case in at least one other major university city (Oxford). There is in fact a saved statutory policy (H13 New Student Accommodation) to this effect, which requires ‘like for like’ provision of residential accommodation plus historic ‘catch up’. Whilst we recognise that the University of Southampton is constructing new, purpose-built accommodation in Swaythling and in the City centre, the numbers of bed spaces being created – approximately 1,500 – needs to be seen in the context of total HMO numbers of between 7 and 12,000 across the City, each with an average of 4-5 occupants. In the meantime we should also like to see each university taking a more proactive approach, in particular by warning students of the risks of becoming tenants in unapproved, illegal HMOs.

Finally, it is for consideration whether, as they are businesses, HMOs should not be subject to business rates.

Enforcement

There is of course little point in introducing or modifying policies or regulations if those instruments are not effectively enforced. We recognise that the Council has to act within the law, and that a major constraint on undesirable development is the inability to issue a Temporary Stop Notice without risk of compensation against unauthorised residential uses (at present, the Council has to wait for a breach to occur to serve an Enforcement Notice to require the use to cease). This would require a change in the law and is something on which we and other associations and organisations are already vigorously lobbying our Members of Parliament and the Department for Communities and Local Government. It is strongly arguable that a planning contravention should itself be an offence, as being an unlawful action, irrespective of the eventual outcome in retrospective applications/appeals.

Other desirable changes include:

- Local planning authorities should be allowed to charge a normal planning application fee for HMOs (currently excluded by the Article 4 Direction).
- Similarly, appeals should require a fee.
- There should be a limit to the number of repeat applications that can be made in relation to one site.
- The levels of fines for breaches should be increased. Levels could increase on a daily basis until the breach is remedied.
- Landlords should be liable to prosecution in cases where their tenants are found to be repeatedly responsible for noise and other forms of nuisance. This would give Environmental Health and other regulatory authorities something to aim at.

It should be noted here that dealing with the various aspects of HMOs absorbs a not insignificant amount of Council resources. It is therefore for consideration as to whether, if Council tax cannot be levied on landlords, some other form of financial charge should be applied (the Council's approach to parking charges acknowledges the principle that where a subset of the population makes a disproportionate demand on resources, they should make some direct contribution to the cost). In the meantime, the level of fines for breaches of regulations should be increased. However, and even allowing for those matters over which the Council has no or little control under existing legislation, and in spite of the fact that there has recently been some, very welcome, stepping-up in the rate at which Enforcement Notices are being issued, the Council's performance still falls well short of what is needed (there is said to be a backlog of 200 outstanding cases) There appear to be two aspects to this.

First, and most importantly, there is the question of the adequacy of the resources allocated to enforcement, even though there has been some recent increase. Second, even where there may be adequate resources, the Council still seems to be hesitant and risk-averse. Officers still give the impression that they are keener to find reasons for not taking action than for taking action. In this context, it would also be helpful if officers could confirm that, as enforcement is a matter of fact rather than discretionary judgement, unlawful uses are normally enforced against. Finally, it would also be helpful if the full list of reasons for a refusal were to be given, and not just the main ones.

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