

**A response to the Department for Communities and Local Government  
Consultation**

**Houses in multiple occupation and possible  
planning responses**

**Submitted by**

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**For the attention of:**

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*Submission Document: 9 pages in total including this page*

## Introduction

This submission is made on behalf of the Nottingham Park Estate Residents' Association (NPRA).

NPRA represents residents who live in the Nottingham Park Estate. The Nottingham Park Estate is unusual in that it is a resident owned and managed housing estate of some size.

Located in inner Nottingham, it is a housing estate of approximately 150 acres to the west of the city centre. The estate was originally developed by the landowner, the Duke of Newcastle in the Victorian period, and then acquired by Oxford University in 1938. In the 1980s ownership passed to a resident run management company as residents had felt that the estate could be improved and regenerated if responsibility for the management of the roads and other communal areas could be transferred to a resident controlled body.

Whilst local government services in the area are delivered in the usual way (by Nottingham City Council), what would be called 'streetscape and open spaces' are maintained and managed by the resident run organisation (titled Nottingham Park Estate Limited, which is a not for profit company limited by guarantee, with a Board of 10 directors elected from the resident body at the company AGM). Roads in the estate are unadopted, and property owners pay an annual fee for the maintenance of these and other areas of open space. The estate has open access for the public, and the communal areas provide an amenity for both residents and visitors.

Current population of the area is about 2,000 people, living in about 1,150 dwellings. Data from the 2001 Census indicates 33.8% of dwellings were in the private rented sector (significantly higher than the 13.1% for the Nottingham City Area and nearly 4 times higher than the English average of 8.8%). A reasonable number of these private rented dwellings are houses in multiple occupation. It is anticipated that this percentage has grown since 2001 along with the national growth in the private rented sector over this time.

The area was granted Conservation Area status in 1969. Residents have worked with the local authority to up date the Conservation Area Plan within which the local planning authority (Nottingham City Council) determine planning applications. This can be viewed at: <http://www.nottinghamcity.gov.uk/cdpl-park-man-plan.pdf>

Despite this, in 2009 the area was listed by English Heritage (EH) as being one of the Conservation Areas on EH's At Risk Register. NPRA would contend that HMO properties contribute to this At Risk categorisation.

HMOs within the area tend to be split between those that are marketed at students and those marketed at the so called 'young professional' sector. Certain landlords seek exclusive student occupancy – and advertise their properties as such. It is not possible to know the occupational categories of those living in HMOs marketed at 'young professionals', but whilst some occupants will certainly be doing jobs associated with recognised professional occupations, anecdotal evidence would suggest that many occupants are part of the more casual local labour force, working varied hours and in parts of the service sector (bars and restaurants for example).

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

**Yes.**

Problems are varied and the list below is by no means exhaustive, but they do seem to be considerably magnified by concentrations of HMOs. They are more common than nuisance associated with other properties in the private rented sector or other tenures. As a Residents' Association NPRA is regularly in receipt of complaints about HMOs from residents living on streets where we are aware there are high concentrations of HMOs.

These problems fall into various categories:

### **Anti-social behaviour and Environmental Problems**

Noise nuisance, increased litter, dumped rubbish on the street or within curtilage of the dwelling (both by occupants and landlords) etc, various issues that might broadly be categorised as environmental issues (poor waste management and failure to use designated recycling facilities by occupants for example).

### **Crime**

There seem to be higher instances of property and vehicle crime on streets with high concentrations of HMOs

### **Visual impact / Amenity impact**

Large numbers of 'To Let' boards and signage outside properties have, it is our contention, a destabilising impact on the housing market. Without the concentrations of HMOs on certain streets these would not be a feature of the streetscape. With a concentration, and given the high tenancy turnover associated with these properties, such signage becomes permanent. It indicates a transience that actively serves to dissuade long term residents from seeking property in the relevant areas.

### **Destabilising Communities / Undermining Community Cohesion**

The issues of turnover outlined above serve to undermine community cohesion because they act against the creation of a more settled and balanced community. This has significant negative impact on the way a successful community 'works naturally'. As community cohesion breaks down the intervention of external (statutory and non statutory bodies) is required, with significant cost implications. Without the concentration of such properties we believe a natural balance is significantly easier to sustain.

### **Undermining Balanced Communities**

Local HMO properties tend to be occupied by individuals from a narrow age cohort. If these properties are concentrated then there becomes a significant concentration of individuals from such an age group within a neighbourhood. This militates against the creation of balanced communities that central government indicates are a successful ingredient of sustainable communities.

### **Health**

Residents who contact NPRA about problems associated with HMOs near their own homes often exhibit signs of significant stress, frustration and even depression. This will inevitably be taking its toll on their health and wellbeing. Challenging anti social behaviour (for example when statutory agencies are either unwilling or unable to act when requested,

such as to deal with late night noise nuisance) can result in abuse from perpetrators and is itself stressful and, some would contend, risky.

### **Neglect of Housing Stock / Property Fabric**

Some landlords of HMO properties in our area maintain them to a high standard. However, all too often this seems to be the exception. The fabric of many HMOs is neglected. This impacts negatively on other properties and the housing market in general. It is not clear to us why owners neglect the investment in their assets, but it does seem to be a feature of the sector.

It should be noted that, as set out in the introductory statement, residents of the Nottingham Park Estate pay a supplementary charge (over and above local taxation) to pay for the costs of managing and maintaining the neighbourhood, thus the costs of dealing with many of these issues fall directly on the management company, and are thus passed directly to the residents. This is unlike a neighbourhood where the costs fall to the local authority, whose income is made up from both local and national taxation, which permits the costs of dealing with problematic areas to be shared across areas that do not face such problems. In our neighbourhood many of the costs are thus met directly by the local residents liable for the Rent Charge levied by the estate management company<sup>1</sup>.

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

**Yes.**

Nottingham's local planning authority (LPA), and our Ward Councillors and Member of Parliament, have expressed concern about concentrations of HMOs. The LPA has sought to introduce policies to reduce concentrations of HMOs and maintain housing balance in the local area. Despite these efforts, they have been unsuccessful. It would seem that the current planning framework fails to give them the powers to introduce meaningful controls over the numbers of HMOs in particular areas, that would serve to reduce the density of those HMOs in the areas concerned. Reducing the density would, we believe, be beneficial. The LPA needs to be able to respond to the legitimate representations from residents who require effective planning responses to an issue that has a significant impact on our community. At the moment they are unable to do so.

### **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?**

**No.**

We have reached this conclusion because there are a number of 'Best Practice' measures in place locally, but they are not solving the problems. NPRA is involved in best practice (facilitating and participating in residents' meetings with relevant representatives of Nottingham City Council, Nottinghamshire Police, and the local University; participating in 'Ward Walks' led by local Councillors and involving multi-agency staff to ensure statutory bodies are aware of problems to be addressed – dumped rubbish, misused waste bins

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<sup>1</sup> The "Nottingham Park Estate Act 1990" provides the Nottingham Park Estate Limited its revenue generation powers and is an Act of Parliament

etc). These processes are time consuming (and as a voluntary body NPRA members give their time for free), and costly to public bodies who seem to have to consistently engage in them without solving the problems.

Best practice is useful, and we will continue to engage with it. However it has had a reasonable period of time to be tested here and it has not resolved the problems. It needs to be complemented by changes in the planning framework.

**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?**

***NPRA would favour Option 2***

We would contend that an HMO would benefit from its own Use Class given their impact on the neighbourhood. By assuming that HMOs require planning permission it would then give the power to our LPA to plan the impact of HMOs within its area. It can do this in dialogue with various interested parties (including residents, residents' associations and landlords).

We do not believe that Option 3 (use of Article 4 directions) is the best way forward. We would draw on our experience elsewhere with regard to this matter. In helping to draw up a Conservation Plan for our area (as mentioned in the Introduction to this submission) NPRA sought to lobby our LPA to introduce Article 4 directions to help further protect the character of the Conservation Area. The LPA has been reluctant to agree to this request. In this matter they seem to be influenced by cost factors. We think Option 3 is a recipe for increased costs, and this influences our views, since we don't think this is desirable.

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

As a residents' association we are not a 'practitioner' as such (in responding we are assuming this refers to planning practitioners). However, we would assume practitioners would welcome proposals that reduce ambiguity, reduce the prospects for appeals and other such things that increase costs, delays and uncertainty.

The consultation document (paragraph 38) mentions the Northern Irish example and suggests that adopting this could help bring planning and housing legislation into line. Residents who have raised the issue of problematic HMOs with us have been taken aback to find these legislative differences between planning and housing legislation, which seem to make no sense to the lay person. There would seem to be some attractions to going down this route.

**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?**

***It would be of help to them.***

A matter which is of concern is quite how rapidly areas of problematic HMOs can develop (from a one or two houses on one street, to a larger group, to much of that street, then to adjacent streets). We have seen this happen in parts of the area we represent.

As detailed above, dealing with the consequences of HMOs can be extremely expensive for local authorities and other public bodies. Local authorities not currently encountering problems would be able to have a tool at their disposal that allowed them to at least monitor the change and spread of HMOs. If they then needed to see if they should take action they would have the evidence basis on which to check if such action was necessary prior to problems arising. If they wished to encourage HMOs for whatever reason, they could establish a planning policy framework that aimed to achieve this.

It would be a useful tool for all local planning and housing authorities to help them create balanced housing markets and balanced communities in accordance with the sort of vision government has set out in various relevant pieces of legislation and policy statements.

**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?**

***Not in our area.***

We are not aware that much housing in the area represented by the NPRA is used by homeless or vulnerable people. This is partly because property owners seeking 'investment properties' seem to wish to achieve higher returns provided by individuals capable of paying higher rents via multiple occupancy than such vulnerable groups are able to do. The current situation has therefore made access to housing in our area by vulnerable people more difficult. It could be argued that the community is thus less balanced as a result.

**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?**

We are not aware of any such properties in the area that NPRA represents, so we are unable to comment in detail on this question.

However, the benefits offered by adopting an appropriate planning response would outweigh the risk of unintended consequences, which we believe LPAs would be able to resolve through a 'common sense' approach.

**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?**

***No.***

If anything it would work to improve equality since market forces have served to target properties for HMO occupation by groups with access to higher levels of financial resources (either through higher earnings or increased ability to borrow funds). Such groups do not tend to be, in our estimation, largely composed of disadvantaged individuals.

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

***No. Not immediately.***

Given that it would not be retrospective we can not see that it would serve to reduce the supply of HMO accommodation. However, over time it may do so if the LPA deemed the area to have an over concentration of properties and introduced policies that would prevent further concentrations. This would be desirable. However, a reduction would only occur if the owners of existing HMOs opted to convert them, or market them, to non HMO groups. This would be beneficial where there are over concentrations, but a change to the Use Class Order per se would not make it happen without the decision of HMO owners to act.

It should be noted that in this context we are deeming 'area' to be the area that NPRA, as the respondent, represents. If the 'area' is deemed to be the local authority area, or the wider housing market area, and assuming the demand for HMOs remains consistent, we would expect over the longer term HMOs to be distributed more widely across such an area. This would be beneficial since it would prevent the build up of **concentrations** of HMOs which we believe is at the root of the problem.

**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?**

*NPRA is not of the view that this would be necessary.*

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

**Yes.**

More worryingly we feel that this option (option 3) would create a more cumbersome requirement for the LPA to seek and implement Article 4 Directions. Furthermore we presume there would be a loss of fee income (we understand this to be a factor in the reluctance to introduce Article 4 Directions as a way of further protecting the Conservation Area status in our area mentioned in the response to Q4 above).

**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?**

*Yes, and this is undesirable.*

This contributes to our view that Option 3 is not the preferred option.

**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?**

**Yes.**

In order to help deal with the matters raised in paragraphs 48-51 of the consultation this would be beneficial. However, this is another reason why we believe Option 2 is preferable to option 3.

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

Our experience in seeking Article 4 Directions to further protect the character of the Nottingham Park Conservation Area, despite its 'At Risk' status (as mentioned above in response to Q4) indicates that the LPA is reluctant to use this tool to protect the Conservation Area from inappropriate property alterations due to cost factors (which presumably include compensation costs). We therefore fear that this would be an issue that would serve to dissuade the LPA from using this tool to tackle concentrations of HMOs in our area. Thus we would not be closer to tackling the problems detailed above.

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

**Yes.**

We are not of the view that dealing with the problems facing our neighbourhood by this method is a 'burden'.

The local authority is expected by the citizens who reside in the communities it serves to address many and varied problems, working with a variety of public, private and voluntary bodies to do so. Indeed we would contend that central government believes that local authorities **should** perform this broad role (as they should promote the well being of the local areas they seek to serve). The LPA is part of the local authority and needs the tools to carry out its role effectively. Carrying out these duties is not a 'burden', it is what citizens expect of the local authority.

In contrast, the problems associated with concentrations of HMOs are a severe burden. They are a burden on the statutory agencies attempting to deal with them, on organisations like our estate management body that has to spend money dealing with the consequences, and directly and indirectly on people who live near (and often in) the HMOs themselves.

The extra certainty of greater control will indeed bring benefits that outweigh any costs associated with processing more planning applications. We contend that it will serve to reduce significant costs (both quantifiable and unquantifiable) elsewhere. With this in mind we would urge the Department of Communities and Local Government to implement the necessary changes as a matter of urgency.

## **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 ?**

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

**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?**

What follows is not a detailed assessment of the consultation paper's Impact Assessment.

However, whilst we believe it is hard to quantify many of the costs and benefits we feel there is an underestimate of the costs associated with Option 1 (since much of the 'best practice' involves input from volunteers and community groups like ourselves which is given free, but also dependent on a supply of such volunteers with the skills and motivation to contribute).

The costs of Option 2 seem to be overestimated. The costs of making a planning application for an HMO (which would only be required once) is relatively small given that property investment is a medium to long term business and thus it is likely that the property could remain as an HMO for quite some time (10, 20 or more years would not be unreasonable to expect) and thus the costs can be recouped by the property owner over a lengthy period.

Due to the issues regarding fee loss and possible compensation, the costs associated with Option 3 may be underestimated.

In respect of the benefits, many of these are hard to quantify, but we are convinced there will be wider societal benefits that would make the introduction of changes to the current arrangements (or lack of them) well worth while. A similar point can be made about the impacts likely to be felt by the relevant sectors and groups mentioned.

We believe that the introduction of changes that will serve to tackle the problems associated with concentrations of HMOs will ultimately be beneficial for all parties, including other residents in the neighbourhood, occupants, HMO owners and a variety of statutory and voluntary bodies.

**Submission Ends**