



The RLA's case against Article 4 Directions for small houses in multiple occupancy (HMOs)

April 2013

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1. Executive summary

1.1. Background

Since 6th April 2010, small houses and flats in multiple occupation (HMOs) - i.e. occupied by between three and six individuals not of the same family now fall within their own 'class' for planning purposes, Class C4. This is separate to single dwellings occupied by families of any size which is Class C3. The General Development Order (GDO) gives automatic planning permission to change an HMO to a single dwelling, or vice versa. A local authority may make an Article 4 Direction which enables it to override the GDO so that an application for planning permission has to be made where there is a material change of use.

A number of local authorities are considering making Article 4 directions to enable them to prevent C3 class properties being used for C4 purposes without planning permission, and so restrict the numbers of HMOs in designated areas. These are in areas where there are populations of students, young professionals or migrant workers. If an Article 4 Direction is made it will have to be accompanied by a local plan setting out where and when planning permission will be granted.

The Residential Landlords' Association (RLA) is against using planning laws to restrict the number of small HMOs. Rather any problems should be dealt with using other existing legislation. We would urge local councillors and planning officials to think very carefully before going down this route and to ask themselves the questions which we have posed in the next chapter.

1.2. The need for HMOs

Populations have shifted and demographics have changed, a fact poorly reflected by the current Use Classes. In many areas where there is a concentration of HMOs, landlords are making intensive use of the existing stock in places where it might be otherwise under utilised and poorly maintained. This has contributed to positive regeneration of many inner city areas, for example in Leeds, Nottingham and Manchester.

HMOs provide a vital service to the economies of many of our towns and cities. This kind of accommodation is key to the mobility of the workforce, especially young workers and young professionals. Areas with concentrations of HMOs are renowned for their vibrant nature with local, independent retailers and a café culture, which help promote a diverse and strong local economy. HMOs are not just occupied by students, but with rising rents and difficulties with getting a mortgage, are increasingly required by working people.

1.3. The impact on local communities

The high demand for HMOs has led to the creation of wealth through increasing property prices for local residents. Where restrictive planning

policies have been applied, a real decrease in property prices has been noted. In Nottingham and Leeds, between 33⅓ per cent and 15 per cent has been shaved off the value of properties where the Council has a policy of denying planning permission for new HMOs. The real impact of Article 4 is therefore felt by local residents.

Class C4 is directed solely at the Private Rented Sector (PRS) and imposing an Article 4 Direction to restrict small HMOs will have a direct impact on supply, with consequences for rent levels which will increase. The impact of this will not be mitigated by already oversubscribed social housing providers. As each local authority is under a duty to ensure that sufficient levels of small HMO accommodation is provided in their area, where will alternative provision for HMOs be met?

Neighbouring communities with a more mature or more familial make up are not likely to welcome students moving in, and there will not be the infrastructure to support their needs. In direct contradiction of the intention of the regulation, this is likely to create greater community disharmony.

Article 4 also takes away the freedom of people to choose where they want to live. It allows local authorities to engage in social engineering, restricting who can live in what part of local authority areas. Further, the impact on the environment and transport, currently concentrated in small areas, will spread across our towns and cities. The loss of flexibility, with landlords unable to rent their properties to families as well as groups of individuals to meet the demands of the market, without planning permission, is unwise.

The Rugg Review into the private rented sector argued strongly against the use of planning powers to limit HMO numbers with research showing problems to be confined to less than one per cent of local authority wards.

Local authorities are under a duty to meet demand for housing. Authorities seeking to impose Article 4 Directions will require a robust plan to deal with the issues that will arise from this. It will take considerable time and resources to process resultant planning applications for which no fee is payable. At a time when services are having to be cut, this is not the best use of resources.

1.4. The alternative to Article 4 Directions

Instead of local authorities adopting this new form of regulation, it would be better to address problems that may occur where there are high concentrations of HMOs through the other existing wide range of powers at their disposal – including those used for tackling anti-social behaviour.

Landlord accreditation can also be used to ensure that HMO management is of a high standard. These and other measures have an immediate impact and address the current position whereas the application of an Article 4 Direction may only prevent new HMOs, and even this achieving this objective is questionable.

1.5. The RLA viewpoint

The RLA is opposed to the use of Article 4 Directions and implores local planning authorities to consider very carefully the arguments against doing so.

2. Twenty questions for local councillors and planning officers to ask themselves before implementing an Article 4 Direction

Before they take the decision to implement an Article 4 Direction, elected members and council officers must ask themselves the following questions:

- 1** Isn't this really about restricting the number of students/migrant workers because neighbours do not like having them living beside them?
- 2** Do residents realise how much their properties could be devalued if they cannot be used as small shared houses?
- 3** Should we not look at the broader picture? What will be the wider impact of these measures be on the whole of the local authority area of these measures? Will the local economy suffer?
- 4** With a housing crisis due to a shortage of accommodation how are we going to house single people especially the younger end of the population?
- 5** If there is a demand for small HMO accommodation but we restrict this in one area how are we going to meet our responsibility to cater for it elsewhere?
- 6** If we move small HMOs into other areas what will be the reaction from the local residents of those areas?
- 7** Why does anyone think that the planning system will produce a quick solution to any problems that may exist? Instead, would it not be better to work with local residents and landlords using existing powers to deal with any problems rather than put planning restrictions in place?
- 8** How will we fund the cost of implementing an Article 4 Direction when we are facing major cut backs in local authority expenditure?
- 9** Although some local residents complain about loss of amenities due to small HMOs in their neighbourhood, has this not brought in other amenities and helped promote local businesses?
- 10** The demand for small HMOs does not come out of thin air and landlords only provide them where there is a need. How else are we going to meet this need? Where will the necessary accommodation come from to support local universities and colleges as well as essential workers, such as nurses? Can universities, and other public services, operate without small HMOs to provide the necessary accommodation?

- 11** If we restrict small HMOs in certain areas will it not just push up rents and lead to a loss of cheaper affordable accommodation for those that need it?
- 12** What justification is there really for saying that just because there happened to be more than 20 per cent of small HMOs in an area this makes the 'community' unbalanced? Isn't the concept of a balanced community a myth? What about those areas which are middle class and exclusively owner/occupied? Should we not move smaller HMOs into them so that they are 'balanced'?
- 13** Will traditional family units really move back into the areas where the number of small HMOs is restricted by Article 4? Why did the original families move out in the first place?
- 14** If the families will not move back in, and the properties cannot be used for small HMOs, what can they be used for? Where are the residents going to come from, or will we end up with more empty accommodation and a rundown area?
- 15** Does history not demonstrate that there are always demographic changes? Populations move, migration is constant, and residents come and go, so why is this any different?
- 16** Is there not sufficient legislation that already deals with any problems (e.g. fire safety) which are not covered by planning laws anyway?
- 17** If we restrict the numbers will it not just lead to overcrowding in existing small HMOs? Should we not be making better use of the existing housing stock especially where it is suitable for small HMOs?
- 18** There is a need to demonstrate a *material* change of use before planning permission is required; so, in reality, will this restriction on small HMOs be enforceable?
- 19** Should we really be using planning powers that prevent individuals who have a certain occupation/status from living in specific areas? Should we become involved in social engineering of this kind, and is it right for us to decide that students/migrant workers should be barred from living in certain areas?
- 20** Are we really considering the impact of students/migrant workers or, as we should be doing, are we looking at the impact of small HMOs irrespective of who is living in them?

3. The detailed case against Article 4 Directions for small houses in multiple occupation (HMOs)

3.1. Introduction

Small HMOs rented out in the PRS now fall within their own use class for planning purposes. Shared houses and flats together with bedsit accommodation occupied by between three and six individuals who are not members of the same family are within this use class (C4) as from 6th April 2010.

Single dwellings occupied by families (with no limit on numbers) are in a different use class (C3). As of 1st October 2010 under the General Development Order (GDO), planning permission is automatically granted to change the use of a dwelling from a small HMO to a single dwelling or vice versa. This assumes no Article 4 Direction is in place – see below. Even then planning consent is only required for a change of use where the change is material.

Flats or houses which were already in use as small HMOs as of 6th April 2010 were automatically transferred into the new use classes from that date.

3.2. About the Residential Landlords' Association (RLA)

The RLA is one of the largest direct member national landlords associations operating in England and Wales. We have over 17,000 members who own or manage at least 150,000 units of accommodation. In the main our members are private landlords, some with large portfolios, but we also include managing and letting agents amongst our membership.

Many of the RLA's members rent out shared houses and bedsit accommodation to those looking for this kind of accommodation such as students, young working people, young professionals and migrant workers.

The RLA has been at the forefront of representing landlord's interests when proposed changes to planning law were under consideration culminating in the introduction of the latest set of regulations as of 1st October 2010.

3.3. Article 4 Directions

A local authority may make an Article 4 Direction where this may be "expedient". Where an Article 4 Direction is in force the relevant GDO rights are overridden so, if there is a material change of use involved, an application will have to be made for planning permission to enable the intended change of use to take place. The local authority has to give one year's notice of the making of an Article 4 Direction; otherwise they have to pay compensation. Where an Article 4 Direction is in force no fee can be charged for any application for planning permission.

3.4. The extent of the problem

In her report into the PRS in 2008, Dr. Julie Rugg came out strongly against the use of planning powers to address HMOs. She also stated that her research showed that any problems were confined to less than one per cent of the local authority wards in England.

There may be requests for restrictions on small HMOs but it is vital that local planning authorities retain a sense of perspective. In particular, if these requests come outside areas where there are concentrations of HMOs should local planning authorities even consider taking any action in the light of Rugg's findings?

3.5. Proposals for Article 4 directions

A number of local planning authorities are considering making Article 4 Directions. The purpose of these Article 4 directions would be to prohibit the use of single dwellings within Class C3 as Class C4 small HMOs without obtaining planning permission (or vice versa). The idea would be to restrict the numbers of small HMOs either in designated areas or, in some cases, throughout the whole of the local authority's area. The requirement to give a year's notice to avoid paying compensation, gives owners the opportunity to change their use but, to be effective, there must be an actual change of use before the Article 4 Direction comes into force.

Local authorities contemplating Article 4 Directions are those where the authority believes that there are concentrations of small HMOs occupied by students or, in some cases, migrant workers; and there is strong local opposition from residents to the presence of the small HMOs in their neighbourhoods. Alongside the introduction of an Article 4 Direction, to avoid successful challenges on appeal, the local authority will have to develop local plans for the areas in question. These will be required to set out the criteria by reference to which planning applications will be judged. These Article 4 Directions will be put into place in areas where local authorities want to stop new small HMOs or at least restrict their numbers. It is, therefore, likely to be difficult, if not impossible, to obtain planning permission in these areas.

Other local authorities, especially in London, may be concerned to stop existing small HMOs being converted back to single dwellings so they may adopt an Article 4 Direction for this reason.

3.6. The RLA's views

The RLA is aware that in certain areas there has been concern as a result of the presence of small HMO accommodation. There have been vociferous campaigns in favour of the changes to planning laws. The RLA believes that calling for the adoption of planning laws to deal with any problems is not the right approach.

It remains the case that problems are caused not by the material existence of HMOs but by the behaviour of tenants inside, and planning laws will not be able to reverse changes in areas. Rather, if there are problems then these should be dealt with by intensive area management and the better enforcement of existing legislation to combat anti-social behaviour and environmental concerns. This has been tried successfully and, importantly, it provides an immediate solution to local problems, where they exist.

Before a local planning authority considers adopting an Article 4 Direction we would urge that elected members and officers consider the implications very carefully. Potentially, as we highlight, there are also significant disadvantages for local owner occupiers – i.e. potential significant reductions in the value of their properties.

We are particularly concerned that some local planning authorities are considering district wide Article 4 directions covering the whole of their areas. This flies in the face of Julie Rugg's assessment of the extent of problem areas. She said only approximately one per cent of the local authority wards in England were affected. Having regard to the relevant provisions of the GDO we think a whole district, 'blanket' Article 4 direction is legally highly questionable. Why is an Article 4 Direction needed in any areas where there is no immediate problem or possibility of a problem?

3.7. Who lives in small HMOs?

Much of the debate which led to the changes in planning law was about students. It is, however important to appreciate that this kind of accommodation is not just occupied by students. Frequently it is lived in by young professionals, young working people, single people (sometimes in receipt of housing benefit), nurses and migrant workers. For example a group of three friends sharing a house or flat, as a result of the changes to planning law, are living in a small HMO – for example, three nurses employed at a local hospital.

There are already large numbers of these properties throughout the country. These are not going to go away as a result of the changes to planning law. They will continue to provide the accommodation which is much needed by these groups.

3.8. The need for small HMOs

Certain sections of the community need HMO accommodation in small HMOs. Only the PRS provides this accommodation. Rarely, do social housing providers rent out this kind of accommodation. Tenants needing this kind of accommodation can only find it by renting from a private landlord. As Class C4 is directed solely at the PRS, imposing an Article 4 Direction to restrict/ban small HMOs will have a direct impact on supply. If supply is reduced this will have the consequence of driving up rent levels.

The presence of small HMOs has greatly helped local economies and large local employers such as universities and hospitals.

Due to its non-self-contained nature, renting in a shared house or HMO is usually cheaper than obtaining a self-contained flat or similar property. Frequently, this kind of accommodation provides the first rung on the housing ladder. Small HMOs including bedsits, provide homes for students, young workers, young professionals and migrant workers. Without the PRS providing accommodation for students, for example, it would not have been possible to expand higher education in the way which has occurred in the last 30 years. An educated workforce is vital to our economy. Likewise, young professionals are a key element of the work force particularly in larger cities and towns. Often nurses are found in this kind of accommodation and they are essential workers. This kind of accommodation is vital to the mobility of the workforce. It is the way in which people going to a new town often find accommodation for the first time.

In the RLA's view restrictive planning policies coupled with Article 4 Directions will prove to be a grave disservice to local economies and communities.

Proposals such as those for Article 4 Directions are often motivated by a minority of residents in a local community calling for such measures. By acceding to such calls, local politicians and officers are overlooking the overall economic and housing needs for their city or town as a whole.

3.9. What properties are used as small HMOs

Existing HMOs come in all shapes and sizes. Often they are older larger properties which are now too big and have been sub-divided. The traditional bedsit, however, has been in decline. More often than not concerns centre on shared houses lived in by groups of younger people. Properties within the C4 Use Class include small properties which are very different from the larger properties. Compare a purpose-built flat shared by three friends on one hand and larger converted Victorian properties on the other.

The Use Classes are based on the concept of family but in many respects particularly with this kind of accommodation, the concept of family communities is out-of-date. In any case, families have moved away from these properties. They no longer meet their needs. Instead, PRS landlords have invested substantially in these properties and have sustained the areas rather than allowing them to become derelict

3.10. Local planning authorities duty to cater for the need for small HMOs

Each local planning authority is under a duty to ensure that sufficient levels of small HMO accommodation are provided in their area. Small HMOs including bedsits are an essential element of overall housing provision. There is considerable demand for this kind of accommodation. Across the country the population is growing and household sizes are becoming smaller meaning

that more, smaller units of accommodation are required. This, of course, includes provision for those who want to live in small shared houses and bedsits.

The obligations of the local planning authorities were highlighted in the letter sent by the Department for Communities and Local Government (CLG) at the time the original amendments were made to the use classes order effective from 6th April 2010.

Recent statistics bring home this need. The number of households in England is projected to rise on average by approximately 230,000 per annum. Net new additions to housing stock are only 128,000 per annum at present. Eighty per cent of new units are provided on previously developed land. Three per cent of dwellings are already overcrowded.

Land had to be used more intensively if we are to avoid the use of green field sites to provide the requisite for new housing which is required. However household size is declining with more and more single households and at the same time the overall population is growing. Many of those who have to be catered for are just the kind of people who will be looking for shared housing or bedsit accommodation. This demonstrates the need for this type of accommodation.

Local planning authorities must therefore address this responsibility. Trying to ban this kind of accommodation, or restrict it in particular areas, can be counter productive and contrary to a local planning authorities' responsibilities towards its area as a whole.

3.11. Local plans

If an Article 4 Direction is made local plans will have to state where smaller HMOs are encouraged, if they are to be banned or restricted in certain areas. To meet need, other areas will have to be designated to encourage small HMOs instead. This is provided for in the South Belfast Local Plan, as Northern Ireland is the only area where this process has already been carried through before the law was altered in England. Local Authorities cannot duck this obligation to say where else in their areas the need for shared accommodation is to be met.

3.12. Environmental health and housing law

It needs to be recognised that Article 4 Directions and planning law have nothing to do with the state and condition of smaller HMOs. There is already legislation to deal with this. Larger HMOs (5 occupants on three or more floors) have to be licensed separately under the Housing Act 2004. This Act contains ample powers under which local housing authorities can address problems in HMOs whether they need a licence or not.

3.13. Rent increases

As already pointed out earlier in this document, Article 4 Directions will reduce the supply of small HMOs in areas where there is a demand and a need for them. As always with the law of supply and demand this will lead to increases in rents in those areas, particularly if they are close to places of work such as hospitals.

Therefore, the RLA is calling for local planning authorities to carefully consider what the resulting impact will be, mindful particularly that this kind of accommodation provides cheaper affordable accommodation. Pushing up rental levels will not help those who want this kind of accommodation.

Perhaps those residents in areas who are calling for restrictions and who are parents should pause for thought. One day they may find that their children will need to live in this kind of accommodation. They will discover that either they have to help their children out financially at worst. or at best listen to complaints of prohibitive rents.

3.14. Reductions in property values – IMPORTANT because of local residents interests

In the short period from when the original regulations came into force on the 6th April 2010 and the changes made from the 1st October 2010, it quickly became obvious that an Article 4 Direction will mean that two properties side by side could have significantly different values.

Fig.1. Examples of the effects of Article 4 Directions on property prices

Nottingham

Some estate agents refused to sell single dwellings because the April 2010 changes meant that planning permission could not be obtained for Class C4 use. Agents were down valuing properties by a third.

Leeds

Properties were being significantly down-valued by local agents by around 15-20 per cent.

A property which could only be used as a single dwelling, because of planning restrictions, would be worth **up to a third less** than a similar adjoining property which can be used as a single HMO.

Furthermore, at least 15-20 per cent, or as much as $\frac{1}{3}$, would be shaved off the value of properties which could not legally be occupied as a small HMO because of planning rules.

We have to emphasise that this is not scaremongering.

The impact on property prices will affect any area where an Article 4 Direction is made (see examples outlined in Fig.1). It is imperative that local owner/occupiers are warned of this by those who are proposing Article 4 Directions.

A further risk is that when owner/occupiers realise this there will be an indecent scramble to obtain planning consent for a change of use (particularly as no fee will be payable). Local plans will set limits for numbers. Thus the first 10 per cent, 15 per cent or 20 per cent (or whatever the limit is set at) will not be opposed anyway and their owners will be the winners financially whilst the rest, who will be the losers, will see the values of their properties significantly reduced in comparison.

3.15. Introduction of small HMOs into new areas

Where will alternative provision for HMOs be located? Local authorities will have to ensure that demand is met. What will be the attitude of local residents of those areas where HMOs will be deliberately introduced as alternatives as part of any local planning policies?

3.16. Property condition

Small HMO accommodation is frequently located in the older areas of cities or towns; often inner city areas. HMOs are frequently older housing stock normally built before the First World War. It therefore needs considerable expenditure to renovate it and bring it up to modern standards. Even if this renovation has already been undertaken further investment will be needed to meet the need for energy efficiency.

In the main, those who are opposed to small HMO accommodation are anti-student; they are concerned about “studentification”. However, experience has shown that in areas where students are concentrated, because of property values rising, landlords have been prepared to make considerable improvements and commit a great deal of capital expenditure. Thus, the presence of students in these areas enhances these areas contrasted with the condition of stock in other inner city areas.

3.17. Social engineering

Surely it is an undesirable feature of these measures that local authorities will be involved in social engineering?

Particular individuals will be restricted from certain areas because of their personal status/occupation. Is this the function of the planning system? Is this not the thin end of the wedge?

Consider the public outcry if local planning authorities of seaside towns decided they wanted to ban the aged because of the adverse impact on local

social services, with too many elderly people concentrated in certain areas, and used Article 4 to achieve their objectives.

In the RLA's view, Article 4 sets a dangerous precedent.

If we take the idea of social engineering to its logical conclusion, every owner/occupied estate in the better-off suburbs would have to have its quota of small HMOs.

The RLA remains very concerned with suggestions coming from certain local authorities for wholesale changes of population, with their grandiose ideas of moving students from one area to another. This smacks of social cleansing and is a very dangerous proposition in a democratic society.

3.18. The fallacy of the 'balanced community'

Proponents of the controls on small HMOs speak of localities needing 'balanced communities'. Firstly, they try to define the locality for a community to suit their argument, and then proceed with the argument as if the case is proven on this basis. In other words, they pick an area with boundaries that suits their case.

However, the argument fails to address what should be the locality for this purpose. Should it not be the whole of the city or town, or even a much wider area than the particular locality which is conveniently identified to suit campaigner's purposes? For example in Leeds, campaigners conveniently choose one part of Headingley because it suited their case.

Campaigners then speak of the 'local community' and equate this with the locality that they have already chosen so that it helps their argument. They then go on to argue that each locality or community should be divided up in proportions relative to housing tenures. At the moment, this would be approximately 68 per cent owner/occupier; 18 per cent social sector, and 14 per cent private rented sector. One can then of course adjust the boundaries of the 'locality' to ensure that these proportions are met if one wished!

Would local groups like to impose these proportions in those areas which are more desirable? The RLA suspect that the residents there would have their own views on such a proposal, and reject it. Reality intrudes, so when it suits them campaigners often say that they do not feel that all communities have to match these norms – only the areas which concern them because they live there! At the same time campaigners fail to recognise changes which have occurred. What happens in certain areas, such as Headingley in Leeds, is that the owner/occupiers (other than those who choose to remain) have decided to move out and cash in.

We have also seen campaigners against small HMOs argue that you should divide up the population according to age ranges. Again, this is a nonsense. The argument then develops to say that we have to accept that there is a 'tipping point' at which communities change and become 'unbalanced'.

Various percentage figures are put forward often – 10 per cent, 15 per cent, or 20 per cent – which, again, is convenient to the campaigners' case. How can campaigners truly say that a 'community' (whatever that may mean) begins to feel unbalanced when any of the five main age bands exceed a particular percentage of the population, or because of different tenure ratios? What evidence is there for this assertion other than it suits someone's case?

In Headingley, campaigners suggested that the HMO tipping point would occur when HMOs exceed 10 per cent. In reality, this is a self-serving argument with no known basis other than campaigners' personal views, simply because they do not like living in student communities.

We would urge local councillors and officials to be wary of these kind of pseudo social scientific arguments which are put forward to justify restrictions; particularly as, legally, local authorities must not look at the character of the occupant – instead they have to consider small HMOs of all kinds irrespective of who lives in them.

3.19. This is all about small HMOs and not students etc

Contrary to popular perception, the changes to the Use Classes order are meant to be about supposed problems from concentrations of small HMOs – not about restricting students or migrant workers.

Popular demand from residents, however, is to ban students or in some cases migrant workers. It is very important that local planning authorities appreciate the difference between the number of small HMOs on the one hand, and trying to impose restrictions on students/migrants workers on the other. For example, Nottingham City Council has recognised this and it is important that other local planning authorities understand it as well.

Proponents of these measures are, in reality, arguing for measures in order to reduce student numbers in particular; and opponents of migrant labour have jumped on this band wagon.

To justify an Article 4 Direction, which must be brought in for the proper planning of an area, local planning authorities must look at the impact caused by **all kinds** of small HMOs, and not be restricted to those occupied by such as student or migrant workers. Famously, one local planning authority thought that young professionals were a good thing but other HMO occupants were not! This is not what the new rules are about. All types of HMOs occupied by all kinds of residents must be looked at by the local planning authority.

3.20. Enforcement

Are these rules really enforceable? The RLA believes not. Firstly – supported by case law – in the vast majority of cases will there really be a material change of use involved if what was a single dwelling is occupied by a group of unrelated people? Secondly, will local authorities be able to keep track of

changes of use of this kind anyway? Thirdly, do Council's have the resources to carry out the necessary enforcement work?

3.21. The cost

Across the country, local authority finance chiefs are sounding warning bells, and the plight of local government in the face of central government cuts is well-documented.

With the current cut backs facing local authorities is the use of Article 4 Directions something which a local planning authority should be embarking on at all? Will it have the resources to implement an Article 4 Direction and deal with the consequent planning applications free of charge? Will it have the resources to investigate possible breaches and enforce the new legislation if an Article 4 Direction is made? The RLA believes not.

It is particularly alarming that some local planning authorities are even proposing Article 4 Directions through the whole of their cities and towns with the consequent costs which will be entailed in such a move. Should local resources not be better utilised to actually deal with any particular problems as they arise?

3.22. What will happen to the areas where Article 4 directions are made?

Unfortunately, those supporting Article 4 Directions frequently seem to be wearing rose tinted spectacles. They have a dream of a standard house with a mum, dad and 2.4 children. However, usually the areas where small HMOs are concentrated are older areas with outdated housing stock. Owner/occupies have long since moved out of these areas to more prosperous suburbs and more modern housing. Campaigners for these measures want to re-gentrify. Older type housing is often more expensive to heat and less energy efficient and have no gardens. Will the families return at all? We do not think they will.

3.23. The under-35s rule

Up until now when claiming local housing allowance/housing benefit, under-25s have only been entitled to a single room rate equivalent to a place in a shared house; i.e. a small HMO. The Government is now increasing the age to 35. This will mean that there is much more pressure in many areas for cheaper, single, room-only accommodation. Those residents aged between 25 and 35 will now be looking for this accommodation in addition to the existing under-25s. About 88,000 people are currently affected in England claiming housing benefit and being aged between 25 and 35. Again, local planning authorities must consider this so as to ensure that the needs of their localities are met, and that there is sufficient small HMOs accommodation available to meet this increased demand.

3.24. Affordable housing and homelessness

It is all very well listening to strident claims that “we must do something about students” or “we should stop these migrant workers” but the use of Article 4 powers will of necessity dry up the supply of affordable accommodation, especially for younger people. This will damage local economies and damage the relationship between the older and the younger generation which is increasingly coming under strain.

Bearing in mind that any restrictions have to apply to all small HMOs, irrespective of by whom they are occupied, local planning authorities should think long and hard before they reduce the supply of accommodation for students, working people, young professionals, migrants, etc., in their local areas. Otherwise, the local economy will be adversely affected and a greater price will be paid with all the problems surrounding homelessness and overcrowding, because of the lack of available housing.

3.25. The need for a local plan

The local planning authority seeking to use Article 4 powers will have to prepare an acceptable plan to deal with all the issues that arise should they seek to ban or restrict small HMOs. Where and how will provision be met for this kind of accommodation bearing in mind the increasing demand for it; e.g. the change in the under-25 rule, or the creation of smaller households increasing population, etc.? This plan will need to be robust because it will be tested. It will take considerable time and resources to process the necessary plans. Should these resources be devoted to this kind of issue in the current financial climate?

3.26. Impact on the environment and transport

One of the problems of spreading small HMOs around towns and cities is the adverse impact on the environment. At the moment, HMOs tend to be concentrated in localities; e.g. near to local universities or hospitals. Where student accommodation is close to a university or college students can walk and the same applies to others. If, instead, small HMOs are located around a city or town then there will be increasing demand for travel by car to get to and from work or college. It is not a very desirable consequence of use of Article 4 powers.

3.27. The inevitability of change

Unfortunately, it is a fact of life that the character of our towns and cities change over time. Populations shift and demographics change. As is so often the case, many left behind in certain localities find this unpalatable; but, as with the operation of market forces, this kind of change is unavoidable. It may be far better to try to adapt than try and stop it, Canute-like.

3.28. The alternative

If there are difficulties in an area local authorities already have extensive powers to deal with neighbourhood problems such as anti-social behaviour. Local authorities can work where appropriate with relevant partners, agencies and organisations, as well as PRS landlords, to implement these existing powers effectively. Most importantly, these powers can have an immediate impact, in comparison to waiting for much longer planning processes to operate, if they work at all.

Accreditation schemes for local landlords can also be utilised.

3.29. Retail and community facilities

Areas where there are concentrations of small HMOs are renowned for their vibrant nature. This brings in different retailers and a café culture. Local amenities such as local cinemas stay in business when they would otherwise shut. Local residents may bemoan the loss of their favourite grocer but this is more likely because of the impact of the supermarket. On the other hand, student and similar areas encourage small and enterprising businesses which help create jobs and diversity in the local economy.

3.30. Adverse impact on landlords' attitudes

PRS landlords provide a vital service and play an important role in the local community. They deserve to be treated as such because they provide the only source of accommodation for those who need non self-contained rooms and the like. Unfortunately, local landlords often perceive their respective local authority to be hostile. This means that there are poor relations between local landlords and local authorities which works to the detriment of the wider community. The PRS is often, as a result, closed off to the low paid and vulnerable.

Usually blamed for the anti-social behaviour of the tenants, PRS landlords have no immediate remedy. Yet issues such as 'studentification' have been allowed to influence planning controls with potentially far reaching economic consequences – this could threaten an area's ability to retain post-graduate young professionals, if the vibrant communities are diminished.

For example, in Manchester, the vibrant south Manchester communities are under threat, which will reduce the city's abilities to keep young professionals who are vital to the health of the city's economy.

As Ball (2010) states, "...The majority of rental housing is spread around neighbourhoods of quite old, terraced and semi detached houses and flat conversions within this house type (Ball, 2008; Glascock and Turnbull, 1994). New properties in blocks of flats – through often thought to be typical buy to let territory – are, in fact, comparatively rare within the private rental stock. New rental properties are often derived from renovations and conversions of previously single-family properties into flats. This has the spin off benefit of

making intensive use of the existing stock in places where it might be otherwise under utilised and poorly maintained. Such conversions and modest upgrades are often found in neighbourhoods of relatively moderately priced properties. This can assist in regeneration and in avoiding neighbourhoods slipping over into cumulative decline.”¹

3.31. Smaller 3 and 4 occupant HMOs

Even if Article 4 Directions are to be made it is very important that local planning authorities give careful consideration to the size of properties involved. With smaller properties, in any case, there will be no material change of use even if a ‘family home’ is occupied by a group e.g. three nurses sharing a house. Planning permission will not be needed. Therefore, why is it necessary to even contemplate the necessity of needing planning permission in this situation? Surely the answer would be to exclude properties which are only occupied by three or four from the scope of any changes.

3.32. Existing small HMOs

Equally, there is the issue of properties which were already shared houses as at 6th April 2010. This is a very important issue which needs careful consideration should a local planning authority decide to make an Article 4 Direction. Flexibility in the housing market is very important. One year a landlord may let such a property to a group – e.g. a group of nurses – but in another year to a family. This is especially so in areas where demand is uncertain, such as in Headingley, Leeds.

Landlords will not rent out properties which have been used by groups to families if they do not have the right to re-let them subsequently to a group.

Thus, in the RLA’s view, any local planning policies need to make it clear that there are ‘preserved rights’; i.e. if the property was already a shared house as at 6th April 2010 it can be used interchangeably between Class C4 small HMOs and Class C3 single dwellings without the need for planning permission, even if there is a material change of use involved. This can be done by indicating that planning permission will be granted for these changes backwards and forwards in such circumstances.

3.33. Holiday lets

For certain areas, such as seaside towns, the impact of any Article 4 Direction needs to be carefully considered. Often holiday accommodation is used ‘out of season’ for ordinary lets. The holiday let property may be let out to families during the summer, but may be let out of season to groups.

The holiday trade will help the locality and out of season holiday use of the accommodation should also be encouraged. Imposing an Article 4 Direction

¹ Ball, M (2010), ‘*The UK PRS as a source of affordable accommodation*’, Joseph Rowntree Foundation.

and restrictive planning policies will stop the most beneficial use of this kind of accommodation, damaging the local economy at the same time.

3.34. The broader view

Inevitably there will be vociferous calls from a minority of local residents to introduce Article 4 directions to stop the spread of small HMOs. The RLA very much hopes that in this paper we have at least persuaded local politicians and officers to think twice before going along with these minority demands.

It is vital that the broader picture is looked at, and the wider needs of residents are considered.

There is a danger to simply compartmentalise certain local neighbourhoods, and ignore the wider picture; and the benefits to the wider economy of a city or a town as a whole by that small HMO accommodation provides.

Undoubtedly small HMO accommodation will help the local economy, the local labour force and job mobility. Communities where there are small HMOs often bring with them services and amenities which would not otherwise be provided to cater for their needs. In turn these benefit local residents.

We acknowledge that on occasion, unfortunately, there are problems. We do not believe, however, that the planning system, which can take many years to work, is the solution. After all, local authorities already have an extensive armoury of powers to deal with problems. It is very easy to approach these local problems in a parochial way, and the RLA would urge local authorities to look at the wider picture.

4. Conclusion

The RLA is opposed to the use of Article 4 Directions.

We call on local planning authorities thinking of adopting Article 4 Directions to think long and hard, and consider very carefully the arguments against their imposition.

The RLA urges elected members and council officers to answer the questions we have posed in chapter two, in the light of the arguments we have put forward, and to think carefully about the motives and reasons put forward by those who are campaigning for Article 4 Directions to be implemented.

It is very easy to be swayed by political pressure from residents because of the fear of losing votes in a forthcoming election. We believe that a far more robust view needs to be taken of the arguments which campaigners put forward for imposing an Article 4 Direction.

It is vital that elected members and council officers consider very carefully the overall impact on their area as a whole rather than worry too much about issues in a relatively small area. Irrespective, there is no guarantee that planning powers will have any impact; and, if they do, any benefits will take a long time to be evident. Rather, it would be better to concentrate on any immediate problems and deal with those issues using the abundance of existing powers. In the end it will be this that will satisfy the majority of local residents with action seen to be swift rather than prolonged.

April 20013