



National Landlords Association:

Response to Warwick District Council's Local Plan Consultation

June 2012

Introduction

1. The National Landlords Association (NLA) exists to protect and promote the interests of private residential landlords.
2. With more than 20,000 individual landlords from around the United Kingdom and over 120 Local Authority Associates, we provide a comprehensive range of benefits and services to our members and strive to raise standards in the private-rented sector.
3. The NLA seeks a fair legislative and regulatory environment for the private-rented sector while aiming to ensure that landlords are aware of their statutory rights and responsibilities.

General Comments

4. The National Landlords Association (NLA) would like to thank Warwick District Council for including us in your consultation on your New Local Plan. This statement will only make comments on the provisions relating to "Policy PO6: Mixed Communities and Wide Choice of Housing" and the Direction made by under Article 4 (1) of the Town and Country Planning (General Permitted Development) Order 1995.
5. An Article 4 Direction is undoubtedly a powerful tool for local authorities when used appropriately. However, it is a planning instrument rather than a tool to be applied liberally to combat societal problems. We are very concerned the "Council does not consider that there are any other options for planning for mixed communities and ensuring a wide range of housing to meet needs¹" as we are unconvinced Warwick District Council has explored all of the appropriate avenues or provided sufficient justification that this Direction is suitable to meet the Council's objectives.

Background

6. The trends in future UK housing demographics and in the future growth of Higher Education, along with the current lack of available housing finance and supply of affordable housing, point to a greater need for shared housing in the UK.
7. The flexibility and affordability that HMOs and shared housing provide are critical for many who either cannot afford or do not want the liabilities involved in owning their own home. The Government-commissioned review of the private rented sector published in 2008 identified a clear growth in the number of young professionals renting instead of turning to home ownership. 20 to 29 year olds now account for 79% of all tenants². While accurate statistics do not exist in this area, it is likely that the majority of this is shared housing.

¹ New Local Plan, Preferred Options, May 2012, Paragraph 7.60, p.31

² Julie Rugg and David Rhodes (2008), "The Private Rented Sector: Its contribution and potential", p.16.

8. In addition to young professionals, migrants and students make up an important part of the shared housing market across England in general and Warwick in particular. For obvious economic reasons and for flexibility, shared housing is an important source of housing for these groups. However, demand is not static. Recent research suggests that emigration out of the UK by economic migrants is increasing³ and current projections for student numbers point to the majority of future student growth over the next couple of decades being amongst post-graduates and part-time undergraduates⁴.
9. The overwhelming characteristic between these groups is that they are necessarily transient. These households are not intended to 'grow roots' or stay in the same home for a generation. HMOs and shared housing are popular amongst these socio-economic groups precisely because they provide a fluid housing option.

Policy Reasoning

10. It states at paragraph 5.44 of the Warwick District Council Strategic Housing Market Assessment that the main reason for creating this Article 4 Direction is that "when concentrated, [HMOs] may lead to particular problems such as short term tenancies, impact of lifestyle, less pride in the area, stress on parking, rubbish, increased crime and increased pressure on public services⁵". Like any other tenancy, rights and responsibilities lie both on the landlord and on the tenant. As with any other household, those in shared housing are required to behave in a socially acceptable way. Where reality does not match up to these expectations, both the landlord and the local authority have powers that can be used to tackle unacceptable behaviour.
11. Where a particular issue related to shared housing concentration has been identified, local authorities and enforcement agencies have extensive existing statutory powers to deal with such issues. The NLA argues that such powers should be explored and exhausted before an Article 4 Direction is implemented.
12. These powers require local residents to identify particular cases of unacceptable behaviour so that they can be dealt with. Landlords can neither continually monitor the behaviour of their tenants, nor do anything that may constitute harassment.
13. Frequently local residents develop the false impression that it is the house itself rather than the household that cause problems. They build up a 'general feeling' based on the observation of generally unrelated phenomena about particular localities. This is particularly prevalent in areas of dense shared housing, without looking to see whether particular problems have been dealt with.

³ Finch et al, 'Shall We Stay or Shall We Go? Re-migration trends among Britain's immigrants', IPPR, 2009

⁴ 'The future size and shape of the higher education sector in the UK: demographic projections', Universities UK research

⁵ Paragraph 5.44, p.76; Available at: <http://www.warwickdc.gov.uk/NR/rdonlyres/784BFACF-C6A2-4562-94E9-F84C9219BDF8/0/WarwickSHMARReportFinal.pdf>

14. This aggregation of issues, particularly grievances and ‘general feelings’ about a community can quickly make residents feel that a ‘tipping point’ has been reached. This problem is compounded where residents are not made aware of any specific action taken by a landlord or local authority against a particular household and so are ignorant of any work being undertaken to tackle issues important to them.
15. Where local authorities have come together with other community stakeholders, including local landlords, to tackle particular problems or issues, then there have been successes⁶. However these initiatives do require active engagement by local authorities and only solve the problems associated with negative perception if their outcomes are publicised.

Justification

16. It is the NLA’s contention that the establishment of a small HMO (a change of use from Use Class C3: Dwelling House to Use Class C4: HMO) does not represent a substantial change of use in terms of the burden imposed on local infrastructure. The usage of local services is unlikely to be greatly different for a property shared by three unrelated renters than a family with teenage dependents, or made up of multiple generations. This position is supported by the recent Lancashire Planning Appeal Reference: 100-067-072 which stated:

“The continued use of an end of terrace house in Lancashire as a house in multiple occupation was allowed, an inspector reasoning that noise should be little different from that made by a typical family. The next-door neighbours referred to disturbance from televisions, people moving around the property and doors slamming, claiming that it extended well into the evening on occasion. However, the inspector reasoned that in properties in family use many bedrooms occupied by children, and particularly teenagers, contained televisions and audio equipment. Thus, whilst tenants might be inconsiderate on occasion, the same could be said of any type of occupier. Moreover, she found no evidence to support the generalised assertion that occupiers of an HMO were intrinsically more disposed to coming and going in the late evening or early morning hours than occupiers of other property types. She acknowledged that some tenants could work on a shift basis or during night time hours but given the limited number of occupants she did not consider that the comings and goings would be materially different from that associated with a typical household”⁷.

17. It is of great concern to the NLA that there does appear to be any documentary evidence provided by Warwick District Council of the impact or problems associated with HMOs to support the Article 4 Direction. We therefore do not believe there has been sufficient evidence advanced in justification

⁶ ECOTECH (2008), “Evidence Gathering – Houses in Multiple Occupation and possible planning responses”, CLG. Although the Government’s ECOTECH research focuses on student and migrant sections of the population, it does identify a number of effective local level initiatives which show stakeholders coming together.

⁷ Planning Appeal Decision Ref: 100-067-072, A Roland (Inspector), 2010
<http://www.compasssearch.co.uk/compass/faces/casebook2.jsp>

for the policy. This lack of evidence is also reflected in the relevant sections of either the New Local Plan⁸ or the Strategic Housing Market Assessment⁹.

18. The NLA is therefore forced to conclude that it and other interested stakeholders are unable to provide informed comment or constructive feedback on the reasoning for the scheme; as no reasons appear to have been advanced by the District Council to support their plan of action.

Housing Benefit / Local Housing Allowance (LHA) Tenants

19. 2010's Comprehensive Spending Review changed the shared room rate age threshold for Local Housing Allowance from 25 to 35, meaning that single benefit recipients under this age have only been able to access shared housing since 1 January 2012. The Government have estimated that 88,000 extra rooms in HMOs are required and the Strategic Housing Market Assessment suggests this will directly affect 130 households in Warwick¹⁰.
20. The New Local Plan mentions on several of occasions the desire to create mixed communities. This Article 4 Direction will have the opposite effect. It is specifically aimed at reducing the future availability of good quality private accommodation in shared housing. It will, therefore, have a detrimental effect on the ability of vulnerable and low-income households to locate suitable shared accommodation; potentially increasing homelessness applications to the Council.
21. Further, as landlords choose to take students over those on benefits (for understandable business reasons), it will push single LHA tenants out of much of Leamington and create two communities; those who can afford to live in Leamington and the rest who cannot.

Students

22. Warwick University has 23,420 students¹¹, many of whom live in the Warwick District Council area and seek accommodation through the private rented sector. The university does not have enough accommodation to house all of their undergraduates, let alone their postgraduates. Therefore, the provision of privately rented properties being available for students is essential.
23. The new planning policy is specifically designed to act as a barrier to the provision of good quality shared accommodation for the students in the preferred areas. This will have three effects. Firstly, it will reduce the volume of available property for this important local demographic; potentially pushing students towards those criminal landlords who pay little regard to regulation and will be prepared to exploit a vulnerable market associated with the university. Secondly, it will increase rent

⁸ Mixed Communities and Wide Choice of Housing, Policy PO6, Paragraph's 7.53 – 7.60

⁹ Houses in Multiple Occupation, paragraphs 5.42 – 5.45, ps. 75 – 76; Available at: <http://www.warwickdc.gov.uk/NR/rdonlyres/784BFACF-C6A2-4562-94E9-F84C9219BDF8/0/WarwickSHMARReportFinal.pdf>

¹⁰ Ibid, paragraph 7.62, p.109

¹¹ <http://www2.warwick.ac.uk/about/profile/people>

levels as supply is constrained; making it difficult for students to locate good quality, affordable private rented accommodation. Thirdly, as supply fails to meet demand, it will force students to look for property in different localities – such as closer to the university campus. This will transplant the supply side problems of low availability elsewhere which will reduce the quantity of shared housing accessible by low income households in those areas.

Businesses and the Local Economy

24. Students wish to live near their friends. If students find it difficult to locate suitable properties, they may move *en masse* to other areas. Such an eventuality will take significant amounts of money away from the local economy; not merely in terms of rental income but also for local businesses. This policy will therefore have a negative effect on local businesses that cater to the student's needs and desires. If students move away from Leamington and chose to live in Coventry, it is highly likely many local businesses will fail.

House Prices

25. Landlords are willing to pay a premium for suitable properties in desired locations. This policy will make the Article 4 Direction designated area undesirable and landlords will choose other areas to invest in property. The result is the 'landlord premium' will be removed and house prices in the area will fall. We have already seen this happen in areas of the country that have implemented Article 4 Directions and have anecdotal evidence from the North East which suggests house prices can be reduced by as much as £50,000.

First-Time Buyers

26. The Warwick Housing Demand Study states that "with the average [house] price still being around eight times income, the data does suggest that many households are likely to have difficulty in accessing the owner-occupied market¹²". This will require many people to rent privately whilst saving for deposits on houses and a significant proportion of these households will reside in shared accommodation. When supply of such accommodation is restricted (as is being suggested by this policy) and demand increases, rents rise. When people have to spend more on their rented accommodation, they can save less which in turn increases the length of time they remain in rented accommodation before they can build up a deposit large enough to access the owner-occupied market. Therefore, this Article 4 Direction is likely to make it more difficult for people to become owner-occupiers.

¹² Paragraph 6.8, p.81

Locational Policy to Determine Planning Applications

27. Paragraph 7.59 states that “[t]he Local plan will, therefore, need to include a locational policy to determine planning applications for shared houses as well as other types of HMOs”. It is not clear whether it is being proposed this will be undertaken through a Supplementary Planning Document (SPD). Paragraph 6.1 of Planning Policy Statement 12 (PPS 12) states that “SPDs should not be prepared with the aim of avoiding the need for the examination of policy which should be examined¹³”. We believe this policy is too important for the continued development of Warwick’s housing mix for it to be introduced by way of a Supplementary Planning Document, as is potentially being proposed here. Whilst SPDs carry less weight and are a ‘material consideration’ for the purposes of development control, it is extremely difficult for an individual appellant to challenge a high level policy such as this if the details were to be incorporated in an SPD. Without a proposed locational policy, the New Local Plan could not work and therefore, it would be highly inappropriate to implement this policy through an SPD; effectively avoiding the proper independent scrutiny available via the Development Plan Document (DPD) process.
28. Further, we have seen several local authorities who have adopted Article 4 Directions decide that planning permission will be denied when a ‘Tipping Point’ has been reached (where a community becomes unbalanced if the concentration of HMO exceeds 10% within 100m). This is an assertion by the National HMO Lobby¹⁴ and should not be used as the basis for planning policy. Such important decisions must be based on substantive, objective empirical evidence of local problems. As such, we hope that if Warwick District Council does choose to go forward with implementation based on percentages they will undertake a robust evidential analysis and come to conclusions built on local needs rather than merely adopting the National HMO Lobby’s ‘Tipping Point’.

Conclusion

29. It is the NLA’s contention that Warwick District Council has failed in its duty to provide satisfactory justification for its proposed actions.
30. We do not believe Warwick District Council has provided sufficient evidence to create “a particularly strong justification for the withdrawal of permitted development rights” as is required by Department of Communities and Local Government Guidance¹⁵ and would suggest the entire Policy PO6 be reviewed and re-drafted with robust evidential justification.
31. As such, at this stage, we would argue this plan cannot be legitimately implemented.

¹³ Planning Policy Statement 12: Creating strong safe and prosperous communities through Local Spatial Planning, 2008

¹⁴ National HMO Lobby, *Balanced Communities and Studentification; Problems and Solutions*, 2008

¹⁵ Department of Communities and Local Government Replacement Appendix D to Department of the Environment *Circular 9/95: General Development Consolidation Order* (978 0117531024), November 2010