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The Rt Hon Tessa Jowell MP
House of Commons
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06 APR 2010

Dear Tessa

HOUSES IN MULTIPLE OCCUPATION

Thank you for your letter of 18 March to the Rt Hon John Denham MP raising the concerns of a number of your constituents about changes to planning law in respect of shared housing. I have been asked to reply as I have Ministerial responsibilities for planning.

Your letter relates to the Government announcement on the 27 January about amendments to planning law in relation to houses in multiple occupation (HMOs).

Our announcement confirmed the Government's intention to introduce a definition of a HMO into planning law. This means that, in future, planning permission will be required, where a material change of use occurs, to change the use of a property from a dwelling house to a HMO. At the same time we have amended planning law to allow a change of use from a HMO back to a dwelling house without the need to apply for planning permission. The changes will come into effect on 6 April 2010 and will apply only to new HMOs.

These changes are about giving local authorities the powers to deal with the problems that can occur as a result of high concentrations of HMOs, such as pressure on over-used community facilities, increased litter and anti social behaviour. Requiring planning permission will allow local authorities the opportunity to consider fully the impacts of new HMO development. In those areas that suffer from the problems associated with a high concentration of HMOs, local authorities may decide to have policies in their local plan seeking to restrict new HMO development in a certain area or to impose standard conditions on this type of development, for example to deal with parking issues.

In broad terms, the HMO definition will cover properties occupied by between 3 and 6 people as their only or main residence, who are not related, and who share one or more basic amenities such as a kitchen or bathroom.

As I have said the changes will not be retrospective. This means that properties which are currently being used in a way that would be covered by the HMO definition will not require planning permission. It will be for local planning authorities to determine, depending on the individual circumstances of each case, whether the use of a property falls within the HMO definition.

The other key point is that, as with any change of use, it is only where a material change has occurred that planning permission will be required. Again, it is for local planning authorities to determine where a material change of use has occurred and each case will always be a matter for individual determination. In practice, this means that even if a property is being used in a different way, the local planning authority may consider that the land use impacts of such a change are not significant enough to require planning permission.

The Government recognises that the properties which will be affected by these changes often form a flexible part of a landlord's rental portfolio without a particular type of occupancy in mind. In some cases the same property will be let to a family for a period and then to individuals for the next period, falling back to family use after that. It is for this reason that a change from a HMO back to a dwelling house will not require an application for planning permission. Any subsequent change back to a HMO will only require planning permission where the HMO use is deemed to have been extinguished. This will be a matter for the local planning authority to determine on a case by case basis. However, in practice, it is likely that if planning permission is obtained for a change of use from a dwelling house to a HMO that permission will endure even if there is a temporary reversion to a dwelling house. This means that landlords will not have to incur the costs of submitting a planning application every time the occupants of their property change.

Properties occupied by more than 6 people as their only or main residence, who are not related, and who share one or more basic amenities such as a kitchen or bathroom are not included within the HMO definition for the purposes of planning legislation. These larger HMOs will remain unclassified and a material change of use from a dwelling house or a small HMO to a large HMO will require planning permission.

Our intention in making these changes is not to drive landlords out of the HMO sector. Both the Government and local authorities recognise that HMOs provide a valuable source of lower cost accommodation. And of course local authorities will still have a duty to meet the housing needs of those groups who typically occupy HMOs. I am sure therefore that local authorities will apply their policies with this in mind.

I believe there is a real need to intervene to help local planning authorities tackle specific problems where they occur. It is clear from the research we have commissioned and the responses to our consultation that good practice alone cannot solve the problems encountered in a number of communities. This measure will enable local planning authorities to identify new HMOs with more certainty and target specific areas where there is a need to restore community balance.

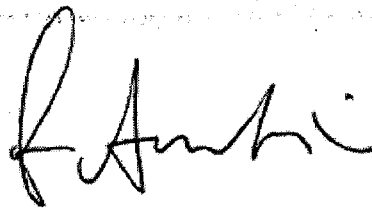
Local planning authorities have a wide range of discretionary enforcement powers to deal with situations where planning permission is required but landlords fail to submit an application.

Local authorities also have other powers under the Housing Act 2004 to improve management standards and the condition of privately rented accommodation. Measures

such as HMO licensing have helped to ensure the protection of the health, safety and welfare of the occupants of such properties. Of course we recognise the role that responsible landlords play in meeting local housing need and, through raising management standards in the sector, this will have a positive impact on local communities.

As you may be aware, on 3 February we published a policy statement, "*The Private Rented Sector: Professionalism and Quality: consultation responses and next steps*". This sets out the Government's plans for the private rented sector following the Rugg Review, including the intention to go ahead with the plans we consulted on last summer to establish a national register of landlords, regulation of letting and managing agents and other measures to help tenants, landlords and agents by tackling bad practice and supporting good landlords and agents. These proposals are designed to improve the professionalism of the sector and to ensure that consumers – both landlords and tenants – are properly protected.

I hope this reply is helpful.

A handwritten signature in black ink, appearing to read 'Ian Austin', written in a cursive style.

IAN AUSTIN