

Cabinet

7 February 2018

Regulation 7 Direction – Proposals to restrict Letting Boards in areas of high number student properties



Report of Corporate Management Team

Ian Thompson, Director of Regeneration and Local Services

Councillor Carl Marshall, Cabinet Portfolio Holder for Economic Regeneration

Purpose of the Report

1. For Cabinet to authorise the Head of Planning and Assets to make a proposal to the Secretary of State under Regulation 7 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 for a Direction which would operate to withdraw deemed consent for the display of Letting Boards within the Durham City Conservation Area.
2. The effect of such a Direction would therefore be to require advertisers to submit an application to the Council for express consent. Officers will also explore the need to introduce an interim planning policy on how such applications would be determined prior to a relevant policy being introduced as part of the County Durham Plan
3. Significant representation has been made to the Council on the issues of letting boards and the impact they have on the environmental quality of Durham City. Introducing a Regulation 7 of the Control of Advertisement Regulation (Regulation 7 Order) would allow the Council to introduce controls on letting boards. The new control will improve the visual amenity of the area by removing large number of letting boards which are unsightly and difficult to control and detracts from the character and appearance of the special visual amenity of the Durham City Conservation Area. This new control would align with the Council's vision of an 'Altogether Better Durham' and the Regeneration and Local Services (REAL) Service Grouping Key Area of Focus of "A Clean, Sustainable and Safe Environment".

Background

4. Letting Boards are classed as a type of advertisement and are regulated by the Local Planning Authority under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. However, Letting Boards, are a

class of advertisement that benefit from 'deemed consent' and do not require express consent.

5. Under the regulations estate agents and landlords are allowed to put boards up advertising a property to let providing that they meet certain conditions. Where these conditions are not met, enforcement action can be taken which can be time consuming particularly if the breach allegedly relates to the board not being removed after a let. In some cases, landlords legitimately argue that one room in the property is still vacant and therefore they are permitted to retain the board.
6. There has been significant representation made to the Council over a period of time concerning the impact that letting boards have on the historic environmental core of Durham City.
7. Efforts to control the display of letting boards were first introduced a number of years ago following a step change in the nature and delivery of student accommodation in Durham City, which saw an increase in the specialist student landlords and a subsequent proliferation in the advertising. In 2011, following meetings with key stakeholders Durham County Council implemented a Voluntary Code seeking to control their display which has been modified and monitored over the years it has been in place. The view of officers is that the Voluntary Code, whilst having a positive impact, in particular in the initial years following its introduction, has not alleviated the harm to amenity and the environment to the expected standard, and more formal intervention is therefore now required.
8. In particular it is felt that the effectiveness of the Voluntary Code has been diluted in the last year, as not all the estate agents and landlords have signed up to the Code, and even some of those who have done so have not proved as diligent as in past years at meeting the Code requirements. Enforcement of the Code has proved time consuming and costly for the Council. The table below shows the number of complaints in the area received by the Planning Enforcement Service over the last 3 years and demonstrates the increasing number of complaints received in 2017.

Year	Number of To Let Board Complaints Received
2015	43
2016	34
2017	73

Attached at appendix 3 are photographs showing some of the streets which have historically attracted some of the largest concentration of boards. These photographs demonstrate the scale of the problem at its worst, together with photographs showing the locations outside of the letting season

9. It is therefore concluded that whilst improvements have been made, the introduction of the Voluntary Code has not had the desired impact on the area as expected.

10. Introducing a Regulation 7 Direction would allow the Council to introduce firmer controls on letting boards in a way which it has not been able to achieve to date. However, as the power to make such a Direction is vested in the Secretary of State, as opposed to the Council, it will be necessary for the Council to apply to the Secretary of State for a Direction.
11. The new control would improve the visual amenity of the area by removing a large number of letting boards which are unsightly and difficult to control and detract from the character and appearance of the special visual amenity of the Durham City Conservation Area. This new control would align with the Council's vision of an 'Altogether Better Durham' and the REAL Service Grouping Key Area of Focus of "A Clean, Sustainable and Safe Environment".
12. There are best practice examples of other local authorities undertaking the same procedure. In June 2013, Newcastle City Council submitted an application to the Secretary of State for the making of a Regulation 7 Direction to control the display of Letting Boards, within the prime student areas of Newcastle including the areas of Jesmond, Gosforth, Heaton, Ouseburn and Wingove. The Secretary of State duly made the Regulation 7 Direction in September 2014. Following public notice of the approval, the Direction came into force on 5th January 2015 which restricts the display of letting boards in areas of the city with high levels of private rented and student accommodation. The introduction of the Regulation there has led to a significant reduction in the number of letting boards being displayed.

Publicity and Consultation

13. Publicity and consultation on the three options (see below) was undertaken between the 9th January 2017 and 17th February 2017. The following consultation methods were undertaken:
 - A drop in event was arranged providing the opportunity to discuss the proposed options in detail with planning and enforcement officers;
 - A press release was issued;
 - The consultation was advertised on the Council's website which included an online survey which allowed people to comment on the proposed options;
 - Direct mailing was issued to key stakeholders. These stakeholders included the following:
 - Relevant Durham City Residents Groups
 - Durham City Neighbourhood Planning Forum
 - City of Durham Trust
 - Durham University
 - Durham University Students Union
 - Landlords
 - Letting Agents
 - Durham City AAP
 - Durham Bid
 - Roberta Blackman Woods MP

- Durham City Councillors
- Environmental Health Assured Housing Scheme Members

14. Following the publicity and consultation a total number of 104 responses were received.

15. The key comments of all the responses received are summarised in the table below. The table also indicates the frequency in which each comment was mentioned within the responses.

Comments	Frequency
The letting boards are visually harmful and detract from the historic City, the Conservation Area and the World Heritage Site	49
Letting boards are no longer required as modern technology (emails, websites, internet etc) is likely the preferred method of finding accommodation	37
Option 3 for the implementation of a Regulation 7 Direction and complete ban of letting boards is the preferred option	21
The current voluntary code for the letting boards has not worked and some estate agents and landlords are ignoring the code	18
Requests that the Regulation 7 Order be extended to cover the area of the existing Article 4 Direction which restricts conversions of C3 dwelling house properties in to C4 houses of multiple occupation	5
Option 3 for the implementation of a Regulation 7 Direction and complete ban of letting boards is an unreasonable course of action	4
It is noted that other local authorities have taken similar action and introduced a Regulation 7 Direction	3
Internal window letting boards is a better option than external boards	2
Letting boards do not always relate to the property the board is attached to	1
Some boards cause an obstruction on the footpaths	1

The letting boards do not create an adverse impact on the visual amenity of the area	1
Letting boards are considered to be a safety issue	1
Option 2 to continue with the current voluntary code is the preferred option	1

16. Included with the above, comments were received from Durham City Councillors Freeman and Ormerod as well as Belmont Councillor Conway. These Councillors stated they were in support of option 3 and the implementation of a Regulation 7 Direction. Support for this course of action has also been provided by the Member of Parliament for Durham City.

Options

17. Having regard to the representations made it is considered that the following options are available:

- Option 1 – Revert back to position before the implementation of the Voluntary Code
- Option 2 – Continue with the current Voluntary Code
- Option 3 – Implementation of Regulation 7 Direction

18. It is considered that Option 1 would be a regressive step as this would revert back to a situation before the introduction of the Voluntary Code, where the number of displayed letting board was at its highest. This would have a significant detrimental impact on Durham (City Centre) Conservation Area as letting boards adversely impact upon the character and appearance of the individual properties and the collective extent of visual clutter causes significant visual intrusion that is detrimental to the townscape.

19. It is considered that Option 2 would not provide any improvement or enhancement to the existing character of Durham (City Centre) Conservation Area. Whilst the introduction of the Voluntary Code has reduced the number of boards present it has not had the desired effect as not all landlords and agents have signed up to the Code. Letting boards are still considered to have an adverse visual impact and consequently it is considered desirable to implement further controls to mitigate the impact of letting boards in order to preserve and enhance the character and appearance of the designated area.

20. Option 3 is therefore the preferred option as implementing the Regulation 7 Direction would mean no letting boards can be displayed without formal consent from the Council. The Council would therefore have control over the display of the letting boards ensuring a consistent approach is applied throughout that

either preserves or enhances the special interest, character and appearance of the Durham (City Centre) Conservation Area.

Next Steps

21. To introduce controls on letting boards the Council will be required to apply to the Secretary of State to request that he makes a Direction under regulation 7 of the 2007 Regulations. Guidance on the evidence required to support such a proposal is outlined in the National Planning Policy Framework which sets out the Government's planning policies for England.
22. The National Planning Policy Framework states that before a direction to remove deemed consent is made for specific advertisements, local planning authorities will be expected to demonstrate that the direction would improve visual amenity and there is no other way of effectively controlling a particular class of advertisement. Officers feel that a clear case can now be put forward having regard to the monitoring exercises undertaken following the introduction of the Voluntary Code.
23. The guidance on public safety focuses on the safe use and operation of any form of traffic with regards to distractions from the advertisement. The Council's Highways Officer have confirmed that letting boards in the Durham City area are not considered a significant public safety problem with regards to transport.
24. However the impact that the current excessive levels of Letting Boards have on the visual amenity of the Durham City area is considered to be significant. Letting Boards are generally prominently displayed on principal elevations and where there are large numbers the visual impact on the street scene is particularly negative. The evidence the Officers have collected highlights that Letting Boards in the Durham City area are having a detrimental impact on the visual amenity and are harmful to the character, appearance and setting of the Durham City Conservation Area, and there is considered to be a strong case to support the introduction of controls under a Regulation 7 Direction..
25. The current Voluntary Code will continue to be implemented by the County Council until a decision has been made by the Secretary of State on the Regulation 7 Direction proposal.

Legal Implications

26. The application/proposal to be made under Regulation 7 of the Town and Country Planning (Control of Advertisement) (England) Regulations 2007 to the Secretary of State will require satisfaction of publicity requirements (local newspaper, the London Gazette notices etc). Stakeholders will have 21 days to submit objections directly to the Secretary of State, who will then consider the proposal along with any representations received by the Council in response to the formal notices.
27. There is no timescale for a decision which can take between 3-6 months or potentially longer if an Inquiry is called. If objections are received (which is

considered likely) then the Secretary of State will almost certainly convene a Public Inquiry to consider the matter. If the Secretary of State decides to make a Direction, a second publicity exercise is then undertaken.

Resource Implications

28. The process will involve modest cost implications for the Council in terms of staffing costs as well as advertisement costs arising from the publicity requirements. However, substantial further costs could arise if objections are received and the Secretary Of State decides to hold a public inquiry. Based on examples from other authorities the costs are estimated up to £10,000. However this is subject to not having to resource externally for expertise to cover Public Inquiry costs. If the Direction is made, an awareness raising campaign informing residents and stakeholders of the new conditions will also be undertaken which will have some staffing implications as will enforcement and monitoring of the scheme. However, it is considered that these can be met from existing staff resource.

Key Risk and How They Are Being Addressed

29. The current risks are as follows:

Formal objections are received – Application for a complete restriction of letting boards is likely to generate formal objections therefore a robust application will need to be submitted addressing the key potential objections.

Secretary of State refuses application – Current proposal is for a complete restriction on Letting Boards which has not been considered before. The evidence and community support is strong but if the application is refused it may be possible to reapply for the restricted option at a future date with the benefit of improved evidence, should that be available.

Insufficient resources to enforce Direction – Complete restriction option is the simplest to implement and enforce and will be able to be undertaken with existing teams. The process to gather evidence and obtain a conviction is simpler and therefore less resource intensive than existing enforcement action.

Alternative advertisement results in visual amenity deteriorating – The main alternative to Letting Boards is posters in the properties windows. These are likely to be used but will be less intrusive to passers-by and are likely to be taken down by the tenants when the property is occupied. Regular review of the levels and impact on Durham City area will be undertaken and an action plan developed if required.

Recommendation:

30. It is recommended that:

- i. Cabinet authorise the Head of Planning and Assets to make a proposal to the Secretary of State for a Regulation 7 Direction to be made to prohibit the display of Letting Boards within the Durham City Conservation Area without express consent, and to comply with all necessary publicity requirements.

Background papers

National Planning Policy Framework (NPPF)
Regulation Consultation responses and associated files

Contact: Stuart Timmiss Tel: 03000 261 906

Appendix 1: Implications

Finance –

The process will involve cost implications for the Council in terms of staffing costs as well as advertisement costs arising from the publicity requirements. However, substantial further costs could arise if objections are received and the SoS decides to hold a public inquiry. Based on examples from other authorities the costs are estimated up to £10,000. If the Direction is made, an awareness raising campaign informing residents and stakeholders of the new conditions will also be undertaken which will have some staffing implications as will enforcement and monitoring of the scheme. However, it is considered that these can be met from existing staff resource.

Staffing –

None identified – proposals can be supported from existing staffing establishments

Risk – Set out at Paragraph 29 of the report

Equality and Diversity / Public Sector Equality Duty –

None identified.

Accommodation –

None identified.

Crime and Disorder –

None identified.

Human Rights –

None identified.

Consultation –

The recommendation made in the report has been arrived at following appropriate levels of consultation including with relevant external stakeholders and all appropriate internal service departments

Procurement –

None identified.

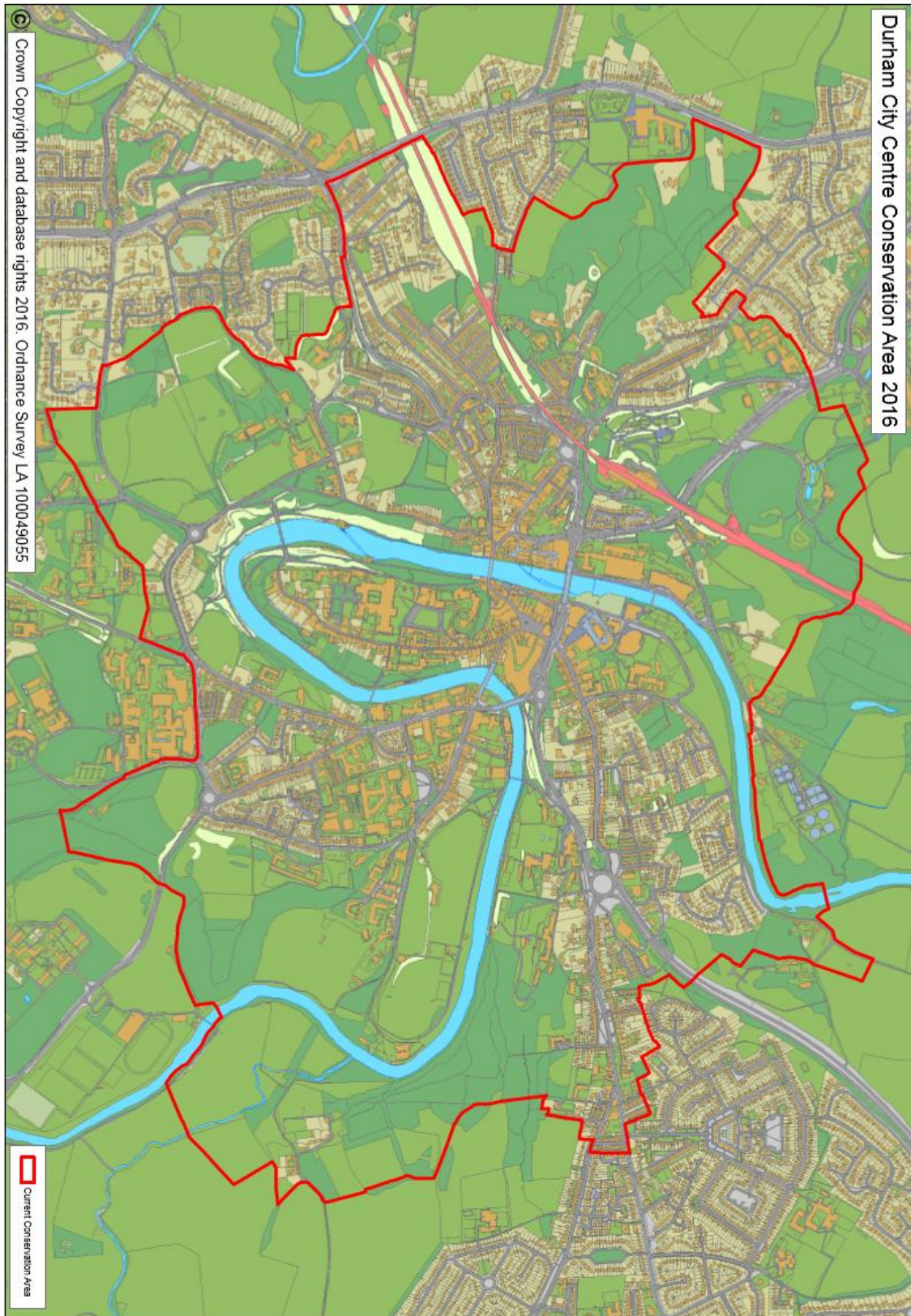
Disability Issues –

None identified.

Legal Implications –

Set out at paragraphs 26 and 27 of the Report.

Appendix 2



Appendix 3

Atherton Street – Durham City



Within letting season



Outside letting season

New Street – Durham City



Within
letting
season



Outside
letting
season

Hawthorn Terrace – Durham City



Within
letting
season



Outside
letting
season

Sutton Street – Durham City



Within letting season



Outside letting season