



Report to the Minister for Housing Communities and Local Government

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an Inspector appointed by the Secretary of State

Date

Town and Country Planning
(Control of Advertisements) (England) Regulations 2007
Direction under Regulation 7 restricting deemed consent for the display of
all To Let Boards relating to residential properties
within Durham City Centre Conservation Area
Application by Durham County Council

Hearing Held on 21 May 2019
Site Visits were carried out on 30 October 2018 and 21 May 2019.

File Ref: APP/ADCPO/18/2

The Terms of the Direction

1. The proposed Direction under Regulation 7 would remove deemed consent rights applicable to the display of letting boards falling within Schedule 3, Part 1, Class 3A of the 2007 Regulations within the Conservation Area of Durham City Centre Conservation Area.
2. At the Hearing the Council suggested that the Direction should be put in force for a period of five years.

Preliminary Matters

3. Given the 'seasonal' nature of the issue, and being aware of the likely need to arrange a Hearing with consequent time delay, I undertook a site visit on 30 October 2018. I then undertook a further site visit after the Hearing on 21 May 2019.

The Council's reasons for making the Direction

4. The Council explains that the number of To Let boards have become excessive in parts of the City where there are high concentrations of rented accommodation. It considers that the excessive number of To Let boards is having a negative impact on the visual amenity of these areas which in turn detract from the character of the Durham City Conservation Area.
5. The Council has sought other ways of minimising the visual impact of such advertisements by introducing a Voluntary Lettings Board Code¹ which seeks to limit signage, the time of their display, their size and shape and location. For example, it suggests no more than 1 board per property and no more than 3 boards per street per agent. This was established in 2011 and has been used alongside Planning Enforcement powers. This covered the area with the highest concentration of signs. The area has been subject to review during that period. The Code has been re-issued within minor changes since 2013 with the latest boundary adjustment in 2018.
6. It is acknowledged by the Council that the boards being displayed largely accord with the deemed consent requirements, but the display time often exceeds the 14 days post securing of a tenancy agreement. This is difficult to enforce but more significantly the deemed consent boards are themselves the main issue.
7. Whilst the Voluntary Code has had some effect it is a long way from being successful in addressing the issue. Moreover, taking enforcement action is costly and time consuming.
8. Complaints about the To Let boards have been significant and subsequent action, where pursued, is costly to the organisation. In 2015 there were 43 complaints, in 2016, 2017 and 2018 there were 34, 73 and 36 complaints respectively. The Council considers that the reduction in complaints appears to be the result of publicising the seeking of the Regulation 7 Direction and, thus, an indication of action by the Council.

¹ Appendix 4 to the Council's case

9. The Council has worked with a wide range of stakeholders which has resulted in this proposal to require that all To Let boards require express consent within the Conservation Area. Those stakeholders listed are:- Durham City Residents Groups, Durham City Neighbourhood Planning Forum, City of Durham Trust, Durham University, Durham University Student Union, Landlords, Letting Agents, Durham City Area Action Plan, Durham Bid, The local MP Roberta Blackman-Woods, Durham City Councillors and the Environmental Health Assured Housing Scheme Members.
10. The Council explains that the To Let boards are situated in great concentration, often becoming a predominant feature of the street scene for much of the area. The Conservation Area is, the Council explains, characterised by a generally tight-knit urban form and high-quality vernacular buildings. Due to the positioning of the signage on prominent elevations, and often above door height, their modern materials and functional appearance, many in bright colours, are visually intrusive, stark and detract from architectural quality, including of listed buildings².
11. It is accepted by the Council that this is a 'seasonal' issue relating predominantly to student accommodation where each year students are seeking accommodation for the subsequent year during the first term of the new academic year. Thus, the period at issue covers approximately October to mid-December. However, it can be earlier with the first boards being rapidly followed by those of competitors.
12. The Council explains that the proposed controls which are for the whole Conservation Area will be efficient, effective and simple with residents and landlords being clear about the requirements of the Direction for the Conservation Area. It considers that this will allow enforcement to take place quickly and fairly when required. The Council considers that there will be a significant environmental benefit as a result of this control as the visual amenity of the Conservation Area and setting for the World Heritage Site (located within the Conservation Area) and setting of numerous listed buildings would be improved.

The Area Covered by the Voluntary Code

13. The Voluntary Code area, which specifically in 2011 included:-

Viaduct Area:- Sutton Street, Mowbray Street, Waddington Street, Ainsley Street, Flass Street, Bridge Street, Atherton Street, East Atherton Street, Mitchell Street, Parkside.

Byland Lodge Area:- Hawthorn Terrace, Laburnum Avenue, Lawson Street, Mistletoe Street, Holly Street, John Street, Alexandria Street, May Street, The Avenue.

Crossgates Area:- Allergate, Crossgate, Neville Street, Summerville, Palatine View, Nevilledale Terrace, Briarville.

² Photographic evidence has been supplied by the Council and by the objector and can be found within the main file. Having seen the area during the main letting season and a quiet period I found the photographs to fairly reflect both scenarios.

Gilesgate Area:- Ravensworth Terrace, The Chains, Kepier Terrace, Gilesgate, Kepier Villas, Mayorswell Street, Mayorswell Field, Renny Street, Ellis Leazes, Douglas Villas, Magdalene Heights, Station Lane, The Sidings, West View, Magdalene Street.

Central Area:- Claypath, Providence Row, Finney Terrace, Wanless Terrace and the Sands, Elvet Waterside, Church Street, Hallgarth Street, Mavin Street, Church Lane, Whinney Hill, Mountjoy Crescent, Back Mountjoy, The Hallgarth, Boyd Street, Gladstone Villas, Highwood View, Highwood Terrace, Anchorage Terrace.

14. The Voluntary Code area was extended in 2018 to include within the Viaduct Area the additions of Lambton Street, Redhills Lane, Tenter Terrace and Highgate. In the Crossgates Area St Margarets Court was added. In the Gilesgate Area Wynyard Grove and Young Street were added. In the Central Area Union Place and Old Elvet were added.

The Area covered by the proposed Direction

15. The area for which the proposed Direction is sought is the whole of Durham Conservation Area³. This is larger than the Voluntary Code Area.

Policy Background

16. The following national documents are of relevance:

The Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

The Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

The National Planning Policy Framework (February 2019) (Paragraphs 124 (good design and its benefits), 132 (advertisements), 184 (heritage assets) in addition to the sustainable development objectives with their economic, social and environmental strands.

17. The Local Plan Policies:-

City of Durham Local Plan (adopted 2004) Saved policies E6, E22 and Q16. The Council acknowledged at the Hearing that Policy E6 did not strictly apply and E22 is general insofar as they seek to protect the Conservation Area and its setting although it does seem to support 'schemes for the enhancement of conservation areas where appropriate and resources permit'. Policy Q16 relates to advertisements and sets out the issues with advertisements in terms of illumination, size, design, materials, colour and so forth and that the determining issues relate to design and highway safety. It explains that particular attention will be paid to the impact of advertisements upon the character and setting of listed buildings and the character and appearance of conservation areas.

³ See proposed Direction Map

18. The Emerging Local Plan Policies:- The Council acknowledges that the emerging County Durham Local Plan is not sufficiently advanced to be awarded any weight in the decision making process at the current time.

Support for the proposed Direction

19. Initial broad support for the proposed Direction was identified during the Council's survey work. As part of the consultation three options were suggested to consultees; continue with the voluntary code; seek a Regulation 7 Direction reflecting the voluntary code so that some restrictions would exist on the number of boards and time of display but boards could still be used; seek a Regulation 7 Direction restricting the display of all To Let boards.
20. The consultation was extensive with a drop-in event, press release, web-site presence and a significant direct mailing estimated to be in the region of 5000 addresses. A total of 104 responses were received.
21. The Council assessed those responses⁴ identifying that only one respondent felt that letting boards do not create a visual amenity issue.
22. At that stage local councillors and the MP sought to support the Regulation 7 Direction option of having a total restriction on To Let boards. A total of 49 respondents felt that the To Let boards were visually harmful, with 21 seeking the Restriction of all To Let boards option.
23. Those responding to the questionnaire felt there was a significant problem arising from To Let boards (90%) with 87% seeking the complete control of all To Let boards through a Regulation 7 Direction. In contrast only 2% felt there was no problem and 3% supported continuation of the Voluntary Code.
24. In terms of the written representations made at the appeal stage Roberta Blackman-Woods MP restated her position of being in favour of the Direction because of the adverse visual impact of the To Let boards and their detracting effect upon the special character of the area and its consequences for tourism.
25. Peter Smith, a gentleman whose company has involvement in student letting, broadly supported the proposal but felt it did not go far enough and considers that For Sale boards should come under Direction provisions to avoid the Direction being abused by people incorrectly advertising properties as For Sale, rather than To Let, so as to circumvent the need to apply for advertisement consent (he set out that wider controls now exist in Westminster because of this issue).

Objections to the proposed Direction

26. As a result of the initial advertisement and consultation exercise, only one person wrote to specifically object and 2% of questionnaire respondents felt there was no need to take action.
27. In terms of written representations at the appeal stage a further letter was received from the objector. This raised the following key points: it will be prejudicial to private landlords and make the marketing of properties more

⁴ Page 11 of the Council's Statement of Case

difficult; the boards are properly displayed, are put up and taken down, and few are evident (during the summer); the cost of enforcing an Order; expenditure by the Council and inconsistency with the Council's advertising approach on cars, roundabouts etc; general waste of Council monies; students are key to the local economy so should be supported; putting up To Let boards creates employment; that the lack of To Let boards would make it difficult for other working people to identify suitable places to rent.

28. At the Hearing the objector took particular issue with two key matters, namely the cost of further regulatory control and the bureaucratic interference in everyday life. Further concerns were expressed that removing To Let boards would reduce choice and opportunity for non-students seeking homes, was a reflection of unwelcoming behaviour for students who support the local economy, the temporary nature of the issue, the subjective nature of aesthetic judgment, the unattractive nature of recent developments, and the likelihood that the issue will diminish with time as alternative ways of marketing property through digital formats will probably have greater focus in the future.

Inspector's Reasons

29. It is clear from the Regulations that there are two key considerations for this proposal: the effect of the advertisements in terms of amenity and the effect of the advertisements in terms of public safety. The focus in this appeal relates to visual amenity.
30. The Conservation Area designated in 1968 and extended in 1980, containing the World Heritage Site inscribed in 1986 and extended in 2008, is of extremely high quality. The topographical form is significant, including the looping bend of the River Wear which is a key part of the dramatic setting of the Norman Cathedral and Castle complex on a peninsula overlooking the city. The natural defensive land form gives rise to a focus at the peninsula neck, a defensive point, with bridges to cross the water. The limited land area contained by the loop in the river is such that the City has developed on land at the opposite side of the river reflecting bridge points. This includes development associated with the development of the railway, such as the imposing viaduct and the streets of domestic properties at its foot. Much of this area is characterised by terraces of a generally uniform architectural style within each terrace. These are juxtaposed with unique, individual, historic buildings and structures. A significant number of the buildings are listed buildings including at grade I and II*. There is also some more modern development. Although the area is dominated by buildings, there are open spaces both of hard surfaced formal form and of greenspace. The formality of the former, and verdant nature of the latter, contribute to the character and appearance of the Conservation Area.
31. Turning to the proposed Direction, the issue relates to visual amenity and not matters of public safety. During my autumn visit, I saw that To Let boards in many of the terraced locations results in an overwhelming view of signage. This signage mars the visual coherence of detailing of the buildings particularly detracting from door casings and fenestration. The topography exacerbates this visual impact as the level changes along streets often results in views being up/down slopes so that the stepped levels of signage obscures lower/higher parts of neighbouring properties.

32. In terms of the other buildings the To Let boards add visual clutter and, for instance when viewing the grade II* Viaduct, they detract from its setting by being visually distracting. Thus, when the To Let boards are in situ the prolific nature of the advertisements has a significant impact which diminishes the visual amenity of this otherwise visually high-quality area.
33. I fully acknowledge that this is a predominantly 'seasonal' impact. However, seeing the marked contrast when the To Let boards do not predominate it becomes readily apparent how visually harmful these adverts are. Given the extent of the period during which the visual harm takes place, a large part of the Autumn academic term, it is not inconsequential.
34. The Council has attempted to find other means to reduce the visual impact. However, I concur that the Voluntary Code is not adequate to control the harm from these advertisements. The next step would be to formalise control through a Regulation 7 Direction.
35. Turning to the effect of that control it is clear the vast majority of residents and businesses are either in support or do not seek to object to the proposed Direction. Whilst there is one main objector to the proposal their objections in terms of principle are not compelling. I do not concur that the matter is purely subjective, rather it becomes difficult to see the high quality of the built environment when cluttered with signage. Although removal of express consent rights is taking additional control it would be in the public interest.
36. Whilst not one of the key considerations in this appeal, in terms of cost the Council has explained that it is already expending significant funds on investigating complaints and seeking remedy, including through enforcement action. I therefore accept the Council's view that the more proactive approach of imposing the Regulation 7 Direction is likely to be no more costly than the current situation. However, this is something that cannot be assessed without trial and therefore is a matter which the Council can only monitor through imposing such a Direction and in any event, the main issue here is whether control is necessary in the interests of amenity.
37. There is no substantiated evidence before me that students or other home-seekers would be unable to find accommodation to rent were the To Let boards not displayed. Indeed, it is questioned, by the objector, as to whether any control should be sought because internet marketing may negate the need for the boards. This reinforces my view that control should be taken as this may encourage a move to less visually harmful letting processes.
38. It seems to me that this proposal accords with Local Plan Policy Q16 in a broad sense. The Framework acknowledges that the quality and character of places suffer when advertisements are poorly sited and designed. In this case it goes beyond design and siting because of the overall extent of signage. However, the Framework acknowledges that while advertisements should only be controlled in the interests of amenity and public safety cumulative impacts can be taken into account. The proposed Regulation 7 Direction would, therefore, follow the thrust of the Framework in seeking good design and enhancing the conservation and enjoyment of heritage assets in the broadest sense. Moreover, the proposal would help achieve a significant environmental benefit which would represent

sustainable development objectives, without conflict with the economic or social objectives of sustainable development.

Conclusion

39. I conclude that there is a significant, albeit seasonal, detrimental effect upon the visual amenity of Durham City Conservation Area arising from the display of To Let boards. Moreover, there is a consequent harm to the setting of numerous listed building both of vernacular and modest domestic scale but also more significant structures such as the grade II* listed viaduct. Further, there is an adverse impact arising from sequential movement through this area which has a consequent adverse impact on the setting of the World Heritage Site.
40. Although the harm is limited to a specific time period, Durham is an attractive location of historic importance which values its historic appeal as an attractor for visitors who contribute to the local economy.
41. The Council has sought to gain control by other means, but this has not been adequately successful. There is support for the scheme proposed and limited objection to it. I consider the restriction to deemed consent rights would be a proportionate response to the problem identified. Moreover, a temporary period for greater control would enable assessment of the success and financial implications of taking such control. It would also enable cultural change to marketing through digital means to develop which might negate the need for formal control in the longer term.
42. On the evidence before me, I am satisfied that the display of advertisements, in the form of the To Let boards, causes a substantial injury to amenity within the Conservation Area (the proposed Regulation 7 Direction Area).

Recommendation

43. In view of my considerations of the practicalities of administering the Direction, and in light of the visual importance of the whole area, I recommend that the proposed Direction be made covering the whole of the Durham City Conservation Area.
44. The Direction should apply initially for a period of five years. This would enable the Council to monitor and review the effectiveness of the Direction in terms of the visual amenity of the areas to which it would apply and allow for the effects of changes in marketing technology to be assessed. It would also allow for consideration of whether For Sale boards should also be controlled, although such considerations might well commence before such an end date should it prove necessary.

Zoë Hill

Inspector

Appearances

For the Council:

Neil Carter - Council's Solicitor
Sarah Eldridge
Paul Hopper
Jennifer Jennings
David Sparks
Laura Ackermann

The Objector:

Catherine Turner

Documents Submitted at the Hearing

Doc 1 Notification of seeking of Regulation 7 Direction

Doc 2 Street Map

Doc 3 Executive Summary for the Durham City Conservation Area
Appraisal

Doc 4 Conservation Area Plan

Doc 5 Plan of Listed Buildings in the Conservation Area

Doc 6 Policy Q16