

## Lancaster City Council | Report Cover Sheet

<b>Meeting</b>	Cabinet	<b>Date</b>	15 September 2020
<b>Title</b>	Regulation 7 Direction under Town and Country Planning (Control of Advertisements) (England) Regulation 2007		
<b>Report of</b>	Director of Economic Growth and Regeneration		
<b>Purpose of Report</b>			
<p>The purpose of the report is to consider a proposal for a Direction under Regulation 7 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 to remove deemed consent for 'To Let' boards on residential properties within Schedule 3, Part 1, Class 3 A (an advertisement relating to the sale or letting, for residential, agricultural, industrial or commercial use or for development for such use, of the land or premises on which it is displayed).</p> <p>This report seeks authorisation for the Director of Economic Growth and Regeneration to proceed with the statutory process and submit a proposal to the Secretary of State requesting that a Direction under Regulation 7 is made.</p>			
<b>Key Decision (Y/N)</b>	<b>N</b>	<b>Date of Notice</b>	<b>17.8.20</b>
		<b>Exempt (Y/N)</b>	<b>N</b>

<b>Report Summary</b>
<p>In some areas of Lancaster, the amount of residential property that is available to rent can create an unfortunate negative visual impact due to the display of many "To Let" boards. This issue is largely associated with properties which are rented out as Houses in Multiple Occupation (HMOs). These often display "To Let" boards for prolonged periods, creating an unacceptable degree of clutter and an adverse visual effect along terraced streets. The introduction of advertisement controls will seek to reduce this clutter and improve the appearance of these areas.</p> <p>A Direction under Regulation 7 would withdraw the deemed consent for the display of all residential "To Let" boards within defined parts of Lancaster City. The effect of such a Direction would be to require <b>all</b> residential advertisers, thus not just HMOs, to apply to the Council for express consent if they wish to display a "To Let" sign. Applications would be considered in the context of Policy DM21 of the Development Management Development Plan Document. The policy seeks to ensure that signs are appropriately sited and do not contribute to an unsightly proliferation or clutter of signage.</p> <p>In February 2020, Cabinet approved progression of the Direction under Regulation 7 through an informal consultation process and then the statutory processes necessary for the Direction to be made. Informal consultation took place between 21 February and 3 April 2020 and comments have been made regarding the proliferation of "To Let" boards in parts of the city not included in the original proposals. It is considered appropriate to extend the area of the proposed Direction to include these additional wards. If made, the proposed Direction would remove deemed consent for "To Let" boards in the wards of Bulk, Castle, John O'Gaunt, Marsh, Scotforth East and Scotforth West.</p>

It is recommended that authorisation is given for the Director of Economic Growth and Regeneration to proceed with the statutory process and submit a proposal to the Secretary of State requesting that a Direction under Regulation 7 is made.

### Recommendations of Councillors

(1) It is recommended that Cabinet authorise the Director of Economic Growth and Regeneration to make a proposal to the Secretary of State for a Regulation 7 Direction under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, to prohibit the display of “To Let” boards on residential properties in the wards of Bulk, Castle, John O’Gaunt, Marsh, Scotforth East and Scotforth West, without express consent and to comply with all necessary requirements.

### Relationship to Policy Framework

The Corporate Plan includes ambitions to make our neighbourhoods clean, well maintained and safe.

The Lancaster District Local Plan includes policies which seek to improve the amenity of residents in Lancaster and to protect the character and appearance.

Policies in the Strategic Policies and Land Allocations Development Plan Document aim to ensure that development, including uses of buildings, maintain the district’s heritage (SP7).

Policy DM21 seeks to ensure that signage is well designed and appropriately sited and does not contribute to an unsightly proliferation or clutter of signage. Policies DM37 to 41 seek to ensure that the district heritage is protected or enhanced.

The proposal seeks to address the detrimental impacts of concentration of letting boards associated to HMOs in accordance with the ambitions of the Council Plan and the Local Plan.

### Conclusion of Impact Assessment(s) where applicable

Climate N/A	<b>Wellbeing &amp; Social Value</b> The proposals will manage the proliferation To Let Boards to protect visual amenity and the historic character of Lancaster.
Digital N/A	<b>Health &amp; Safety N/A</b>
Equality N/A	<b>Community Safety N/A</b>

### Details of Consultation

Informal consultation with stakeholders was carried out between 21 February and 3 April 2020. Please see the Background Paper *Consultation Statement* for further details.

A virtual presentation and question session to student landlords hosted by Lancaster University on 12 August.

Statutory consultation under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 will be carried out once submitted to the Secretary of State.

#### **Legal Implications**

The designation of a Regulation 7 Direction is required to be implemented through statutory processes within the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. Failure to do so could result in legal challenges.

#### **Financial Implications**

The designation of a Regulation 7 Direction is required to be implemented through statutory processes within the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. Failure to do so could result in compensation claims.

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. Substantial further costs may arise if objections are received and the Secretary of State decides to hold a public inquiry. Based on examples, costs are estimated at £10,000. This is however subject to not having to resource external expertise to cover Public Inquiry costs. Any cost arising from a public hearing would be covered by existing budgets.

If a Regulation 7 Direction is made, an awareness raising campaign informing agents and stakeholders of the new requirements will be undertaken. This will have some staffing implications. It is considered that this can be met from existing staff resource.

Any additional staff resources required will be covered, in the interim, within existing staffing levels. As the impact of the change is unknown at this point, it will be monitored and assessed in a year, and evaluated further once the volume of any additional workload is clear.

#### **Other Resource or Risk Implications**

There will be staff implications due to a potential increase in the number of signs which would require Advertisement Consent (therefore an increase in applications) and for the enforcement of the policies. The impact of the increased workload can be monitored in the first year of implementation and consideration given to the resource implications in subsequent years.

#### **Section 151 Officer's Comments**

The s151 Officer has been consulted and has no further comments

#### **Deputy Monitoring Officer's Comments**

The Deputy Monitoring Officer has been consulted and has no further comments

<b>Contact Officer</b>	Fiona Clark
<b>Tel</b>	01524 582222
<b>Email</b>	fjclark@lancaster.gov.uk
<b>Links to Background Papers</b>	
<ul style="list-style-type: none"> <li>• Background Paper in Support of the Designation of a Regulation 7 Direction in Lancaster</li> <li>• Consultation Statement</li> </ul>	

## 1.0 Introduction

- 1.1 There are wards and streets in Lancaster where the concentration of Houses in Multiple Occupation to let, results in a detrimental visual impact caused by the display of a significant number of To Let boards.
- 1.2 A Direction under Regulation 7 (hereafter referred to as the ‘Direction’) would prohibit the display of To Let boards on residential properties (this will apply to **all** residential letterings; thus HMOs **and** lettings as a single dwellinghouse) under Class 3A of Schedule 3, Part 1 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. The restrictions would not apply to commercial To Let boards or For Sale signs.
- 1.3 A Direction would require advertisers to submit an application for express consent. Applications are dealt with in the same way as any other applications for advertisement consent, there is however no fee for an application where deemed consent has been removed. The Council would have 8 weeks in which to make a decision. In an increasingly on-line world, the value of having physical “To Let” signs is reducing; potential students and renters are much more likely to search on-line, where nearly all rental opportunities will be displayed.
- 1.4 Applications would be determined in the context of the Local Plan, including policies which seeks to protect or enhance the districts heritage and policy DM21 which seeks to ensure that signage is well designed and appropriately sited and does not contribute to an unsightly proliferation or clutter of signage.
- 1.5 The power to make such a Direction rests with the Secretary of State, not the Council. It is therefore necessary for the Council to submit a request to the Secretary of State for the Direction to be made.

## 2.0 Proposal Details

- 2.1 Cabinet approved the progression of a Direction for the wards of Bulk, Castle, John O’Gaunt and Scotforth West in February. These are the wards with the highest concentration of HMOs (7.23%, 18.6%, 13.3%, 8.67% respectively). The Lancaster Conservation Area covers a large proportion of Castle Ward and extends into the edges of Bulk, John O’Gaunt and Scotforth West. These are the areas where the highest concentration of the City’s heritage lies.
- 2.2 An informal consultation was carried out for 6 weeks between the 21 February and 3 April to gain the views of residents, landlords and businesses regarding

the principle of introducing a Direction and the area which it would cover. A significant amount of support was received. Comments were received regarding the increasing number of "To Let" boards in the Quay area and the visual impact that they have. Comments were also made that the designation should be expanded to include the whole of Lancaster and the whole of the district. Please see the *Consultation Statement* (attached as a Background Paper) for further details.

2.3 To address this issue, it is considered that the area for designation should be extended to include Marsh ward (3.02% HMOs) and to ensure comprehensive coverage south of the river, the ward of Scotforth East (2.45% HMOs). While the percentage of Houses in Multiple Occupation is high in University ward, this mainly consists of properties within the Lancaster University campus and it is not deemed appropriate to include this area within the controls. The percentage within the Skerton wards and throughout the remainder of the district is low and there is not considered to be sufficient justification to warrant inclusion of these wards within the Direction.

2.4 The attached *Background Paper in Support of the Designation of a Regulation 7 Direction in Lancaster* outlines the justification for controlling "To Let" boards as follows:

*"The case for a Regulation 7 Direction is justified for the wards of Bulk, Castle, John O'Gaunt, Marsh, Scotforth East and Scotforth West for the following reasons:*

- *The areas have a significant concentration of HMOs due to the nature of the housing stock and the proximity to the Universities in Lancaster. Due to the turnover of occupants in these areas, particularly the student population, there is a significant proliferation of 'To Let' boards.*
- *The proliferation and clutter arising from the display of 'To Let' boards have a negative impact on the local character of the areas. The cumulative impact has a harmful effect upon amenity contrary to the aims of the NPPF.*
- *A Regulation 7 Direction will prevent the proliferation of 'To Let' boards in these areas and have a positive impact on the council's ability to control advertisements and ensure that the character and appearance of areas is protected."*

2.5 A *Consultation Statement* is also attached as a Background Paper. This outlines the consultation responses received and how these should be addressed.

2.6 To introduce controls of To Let boards, the Council will be required to apply to the Secretary of State for Housing, Communities and Local Government to request that he makes a Direction under Regulation 7 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

2.7 The National Planning Policy Framework requires that before a Direction to remove deemed consent is made, the local planning authority demonstrates that the Direction would improve visual amenity and there is no other effective way of controlling a particular class of advertisement. It is considered that a clear case

is available, which shows the adverse visual impact signs have where there are clusters of HMOs. Other authorities have introduced Voluntary Codes, such as in Durham but these have not been found to be effective and subsequently Directions under Regulation 7 have been sought and made.

- 2.8 A guidance note, or protocol could be introduced to allow agents to display a limited number of To Let boards in any one street, to display boards flat against the wall above doors and for a limited period. Engagement with agents would be required to ensure that such guidance or protocol was effective.
- 2.9 On receipt of the submission, the Secretary of State will require the council to carryout publicity by placing notices in the local newspaper and the London Gazette which give stakeholders 21 days to submit comments directly to the Secretary of State. The Secretary of State will then consider the proposals along with any representations received. There is no timescale for a decision, which can take between 3-6 month. If objections are received, the Secretary of State may convene a Public Inquiry to consider the matter and further publicity is undertaken.
- 2.10 It is considered that sufficient justification is available to apply for a Direction under Regulation 7, and that this means of controlling To Let boards will have a significant positive impact upon visual amenity and has the potential to conserve or enhance the Lancaster Conservation Area.

**3.0 Options and Options Analysis (including risk assessment)**

<p><b>Option 1:</b>          Submit a request to the Secretary of State for the designation of a Direction under Regulation 7 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 for the wards of Bulk, Castle, John O’Gaunt, Marsh, Scotforth East and Scotforth West.</p>
<p><b>Advantages:</b>          A Direction will allow management of the number of To Let boards displayed. This will reduce the proliferation and clutter arising from the excessive display of boards within terraced streets and improve the visual amenity of the areas designated.</p> <p>A restriction on all “To Let” signs, is the simplest way implement and enforce controls. The process to gather evidence and prosecute is less resource intensive than collating evidence with regard to individual signs. A Direction across all wards to the south of the river will ensure consistency and clear boundaries to agents.</p>
<p><b>Disadvantages:</b>          As signage has not been regularly enforced due to the complexity and number of signs, a Direction may increase the enforcement necessary to ensure that it is effectively implemented.</p> <p>If objections are received, the Secretary of State may to call a public hearing which has staffing and financial resource implications.</p>
<p><b>Risks:</b></p>

If a Direction is not implemented in accordance with the statutory procedures, there is a risk of legal challenge and compensation claims.

The Secretary of State may amend the area to be designated or refuse to make a Direction due the low percentages of HMOs in some wards. If refused a subsequent application could then be made for a reduced area.

**Option 2:**

Submit a request for a Direction under Regulation 7 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 for the wards of Bulk, Castle, John O’Gaunt and Scotforth West, as originally proposed.

**Advantages:**

The evidence with regard to the number of HMOs and the visual impact of To Let boards within the original wards proposed is stronger for the wards with the highest percentages of HMOs.

**Disadvantages:**

Failure to take account of consultation responses received and the proliferation and clutter of To Let signs will continue to adversely affect the visual amenity in these areas.

As signage has not been regularly enforced due to the complexity and number of signs, a Direction may increase the enforcement necessary to ensure that it is effectively implemented.

If objections are received, the Secretary of State is likely to call a public hearing which has staffing and financial resource implications.

**Risks:**

If a Direction is not implemented in accordance with the statutory procedures, there is a risk of legal challenge and compensation claims.

**Option 3:**

Do not progress a Regulation 7 Direction under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

**Advantages:**

None

**Disadvantages:**

The proliferation and clutter of To Let signs will continue to adversely affect the visual amenity of the areas.

**Risks:**

None

**4. Officer Preferred Option**

4.1 The officer preferred option is Option 1, to submit a request to the Secretary of State for the designation of a Direction under Regulation 7 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 for the wards of Bulk, Castle, John O'Gaunt, Marsh, Scotforth East and Scotforth West. These actions will ensure that the concentration of HMOs and associated To Let boards can be managed to better protect the amenity of residents and the character and appearance of the areas proposed to the designated.