

Lancaster City Council | Report Cover Sheet

Meeting	Individual Cabinet Member Report	Date	7.6.21
Title	Regulation 7 Direction under Town and Country Planning (Control of Advertisements) (England) Regulation 2007		
Report of	Service Manager - Planning and Housing Strategy		
Purpose of the Report			
<p>The purpose of this report is to seek authority to confirm and bring into force a Regulation 7 Direction under the Town and Country Planning (Control of Advertisements) (England) Regulation 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>			
Key Decision (Y/N)	N	Date of Notice	Exempt (Y/N)

Report Summary

On 15 September 2020, Cabinet authorised 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. The proposal was submitted on 13 October 2020.

On 29 April 2021, the Secretary of State issued his decision, stating that he was satisfied that the direction should be made to control the display of letting boards relating to residential property within the wards of Bulk, Castle, John O’Gaunt, Marsh, Scotforth East and Scotforth West for a period of 5 years. The decision letter, inspectors report, Regulation 7 Direction and the associated map are attached to this report.

Authorisation is now sought to bring the controls into force.

Recommendations

(1) It is recommended that authorisation is given to bring the 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, into force on 1 September 2021.

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

Details of Consultation

Informal consultation with stakeholders was carried out between 21 February and 3 April 2020.

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

Following the submission of the proposal to the Secretary of State, consultation was carried out in accordance with the requirements set out in Regulation 7 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. This consultation ran between 6 November 2020 and 4 December 2020.

Sixteen representations were received, none of which objected to the making of the proposed Direction. One representation was received from a local sales and letting agent, accepting the need for the consent and seeking to make a distinction between the practices of traditional estate agents and those of student housing and letting agencies. The Inspector appointed by the Secretary of State, addresses this representation in the report stating, "the Council is correct to say that Class 3A does not distinguish between different forms of residential letting and that it would not be practical to make such a differentiation within the Direction. To do so would undoubtedly lead to confusion and make it more difficult for the Council to monitor and enforce the Direction."

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.

Whilst the introduction of the Regulation 7 Direction could potentially generate additional enforcement work initially, in the long run it should make it simpler and less time consuming to enforce. At present there is difficulty in obtaining evidence that a property has been let and therefore the board should have been removed. A Regulation 7 Direction will remove that burden.

As applications will be required for the display of To Let boards, there is a potential for an increase in the number of applications and the costs associated with dealing with them.

If the Regulation 7 Direction is brought into force, 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 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.

Monitoring Officer's Comments

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

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Links to Background Papers

- Regulation 7 Direction;
- Regulation 7 Map;
- Secretary of States Decision Letter;
- Inspectors Report;
- Background Paper in Support of the Designation of a Regulation 7 Direction in Lancaster.

(See link below)

<https://www.lancaster.gov.uk/planning/planning-advice/designations-and-constraints?chapter=5#:~:text=Regulation%207%20Direction%3A%20Control%20of%20To%20Let'%>

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. To address this issue, the Council submitted a proposal to the Secretary of State for a Direction under Regulation 7 (hereafter referred to as the 'Direction') to prohibit the display of To Let boards on residential properties (this will apply to all residential lettings, 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 will not apply to commercial To Let boards or For Sale signs.
- 1.2 The Secretary of State has determined that the proposed controls are justified and on 29 April 2021, issued the Direction as requested. Authorisation is now sought to bring the controls into force.

2.0 Justification and Impact of the Direction

- 2.1 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. 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 area and have a positive impact on the council’s ability to control advertisements and ensure that the character and appearance of areas is protected.”*

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.

- 2.2 The secretary of State agrees with the Councils justification and has issued a Direction which will allow the control of To Let boards in the aforementioned wards. The Inspector concludes,

“that the deemed consent provisions, in respect of the display of letting boards, have had such an adverse effect on amenity in the area included within the six wards that there is no prospect of an improvement in the quality of advertisements in the locality unless the local planning authority is given the power to control that particular type of advertising. The test set out in paragraph 042 of the PPG is, therefore, satisfied and the making of the Direction is fully justified in this case.

For the reasons set out above, I find that the area proposed to be subject to the additional controls has been defined on a sound and rational basis, having regard to the geographical extent of the existing problems, and will enable the Direction to be applied in a transparent and effective manner. I also find that 5 years is an appropriate period for the Direction to be in force before its operation is reviewed by the Council.”

- 2.3 If the Direction is brought into force, it will require advertisers to apply for express consent. Applications will be dealt with in the same way as any other application 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. Applications would be determined in the context of the Local Plan, including policies (DM37 – DM41) which seek 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. The Direction will give the Council the opportunity to consider the impact of signs individually and cumulatively to ensure that they do not adversely affect the visual amenity of the areas covered by the controls.
- 2.4 In an increasingly on-line world, the value of having physical To Let boards is reducing; potential students and renters are much more likely to search on-line, where nearly all rental opportunities will be displayed. Letting agents will be encouraged to make the best use of such methods rather than using signage on individual houses and keeping them in place after lettings are made.

3.0 Process to Bring the Direction into Force

- 3.1 As the Secretary of State agrees that there is justification for the controls and has issued the Direction, it is recommended that the Direction is brought into force. The Council must take certain steps prior to the Direction coming into

force to comply with the regulations. While these statutory steps are simply a case of displaying press notices for between 14 and 28 days prior to the Direction coming into force, it is considered that the Direction should be promoted to ensure letting agents are given full details of the impact of the controls, the consequences of not adhering to them and time to comply with them. Such promotion would take place in the form of emails direct the letting agents, social media, information on the website and through Lancaster University if possible.

3.2 It is recommended that the Direction is not brought into force immediately but on 1 September 2021. This will allow time for promotion but ensure that the controls are in place before the main letting period begins.

3.3 Once brought into force the Direction will apply for a period of 5 years. Prior to the expiration date, the Council must review the order and submit a further application to the Secretary of State should it be deemed necessary that the Order should remain in place.

4.0 Options and Options Analysis (including risk assessment)

Option 1:
Bring the 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 into force on 1 September 2021.
Advantages:
The 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.
A restriction on all To Let boards on residential property, 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 the wards to the south of the river will ensure consistency and clear boundaries to agents.
Disadvantages:
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.
The number of applications for advertisement consent may increase with the associated increase in workloads and costs to the Council.
Risks:

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

Option 2:

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 boards will continue to adversely affect the visual amenity of the areas.

Risks:

None

4.0 Officer Preferred Option (and comments)

4.1 The officer preferred option is Option 1, to bring the Direction under Regulation 7 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. These actions will ensure that the concentration of To Let boards can be managed to better protect visual amenity and the character and appearance of the areas designated.