

**Report to: Place and Economic Development Committee, 6<sup>th</sup> September 2021**

**Report of: Corporate Director -Planning and Governance**

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**Subject: HMO ADVERTISEMENT BOARDS**

**1. Recommendation**

**To leave the current Enforcement Policy unchanged but endorse taking a more proactive approach in working with the particular housing sector to ensure compliance with the advertisement regulation and ensure breaches are pursued and enforced against when expediate to do so, including potential prosecution.**

**2. Background**

2.1 At the Council meeting on 23<sup>rd</sup> February 2021 it was resolved:

**That the Council agree that the proliferation of HMO Advertising boards across the City, and in particular St Clement and St John's Wards, creates an eyesore and detracts from the residential nature of parts of the City. The advancement in digital advertising platforms, supported by evidence from the University and students themselves who advise that they look for properties online using platforms such as Student Pad, would negate the need for this form of obtrusive advertising. Consequently, Council refers the issue to the Place and Economic Development Sub-Committee in order to consider the issue and to amend the policy as necessary.**

2.2 The issues here are twofold. Firstly, the proliferation of advertising boards in a specific area and secondly, such proliferation being exacerbated by unauthorised signs which have not been removed subsequent to the letting of the property.

2.3 Turning to the first issue, Class 3(A) of the Town and Country Planning (Control of Advertisements)(England) Regulation 2007 permits boards to be displayed by such firms as estate agents, chartered surveyors, auctioneers and valuers, advertising that land or premises are for sale or to let subject to size restriction without having first to obtain advertisement consent. In each case only one board may be displayed on premises and this must be removed not later than 14 days after completion of the sale or granting of the tenancy.

2.4 The Council does have the power to restrict deemed consent under Regulation 7 of the Town and Country Planning (Control of Advertisements)(England) Regulation 2007 which, if confirmed by the Secretary of State, could require all such advertising boards within a specified area to have to apply for expressed advertisement consent. However, as discussed and recorded within the minutes of the Council meeting, the net effect of this restriction would be that anyone, including residents wishing to sell their properties within the area, would as a consequence need to obtain advertisement consent to do so.

- 2.5 Whilst the powers under Regulation 7 do allow the authority to control this type of advertisement as stated above, they do not make provisions to allow a Council to only apply such controls to one specific sector of the housing market, namely Houses in Multiple Occupation and neither would the Council wish to do so. Furthermore, a 'For Sale' sign is no more or less visually intrusive than a 'To Let' and therefore, the reasoning behind any application to impose a Regulation 7 order on an area due to visual intrusiveness of only 'To Let' boards would be fundamentally flawed and unlikely to be confirmed by the Secretary of State for that reason.
- 2.6 Importantly, other than by a necessity brought about by a Regulation 7 order, the Council has no power within Planning or any other legislation to require properties to only be advertised solely through digital platforms. This same argument can, in fact be applied to all properties whether they are for sale or being let.
- 2.7 It is also important to note that where a Regulation 7 Order is put in place the subsequent applications required to display this type of advertisement is deemed to be exempt under the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits)(England) Regulations 2012. This would result in more applications being received by the Council for which no income would be derived and therefore represents a real cost to the service.
- 2.8 Turning to the issue of control and enforcement of unauthorised advertisements, this is addressed within the existing Council Enforcement Policy (See **Appendix 1**) which details the powers the Council has to enforce against and remove unauthorised advertisements.
- 2.9 As detailed above under the provisions of Class 3(A) of the Town and Country Planning (Control of Advertisements)(England) Regulation 2007 is, that these signs, are, by their definition, temporary. The problem often encountered with respect to this type of advertisement is that often the boards are not removed once the sale or letting has taken place which, in conjunction with other lawful Class 3(A) signage can exacerbate the impact and result in visual clutter to the detriment of the character of the area. However, under the provisions of the regulations, if the board has not been removed after 14 days following the completion of the sale or granting of the tenancy then the sign is illegal.
- 2.10 Where an advertisement is deemed to be illegal, the Council has powers under the provision of Section 225 of the Town & Country Planning Act (as amended) to issue a removal notice which will require the removal of an advertisement (a placard or poster), within 2 days. Where an advertisement is deemed to be illegal and is displayed on a structure the Council may issue a removal notice which will require the removal of the structure within 22 days (Section 225a). In the event that a removal notice is not complied with the Council can remove the advertisement or structure and dispose of it accordingly. Contraveners can be charged for the removal of advertisements and the structures subject to the notice as the legislation allows an authority to recover their costs. All of this action may be taken in conjunction with a prosecution if it is deemed expedient to do so.

### **3. Preferred Option**

- 3.1 Not to change the Enforcement Policy as it is fit for purpose in pursuing breaches of Advertisement Regulations.
- 3.2 To take a proactive approach to the control of unauthorised Class 3(A) signage and write to all those individuals/companies within WCC who put up this type of signage as per the attached letter (see **Appendix 2**).

This letter asks that they work with the Council to ensure that these signs are only in place for the absolute minimum amount of time as per the legislative requirements, of which they will be reminded. It will ask that unauthorised signs are removed promptly thus avoiding the need to pursue enforcement action but also make it clear that failure to remove the boards will result in enforcement action being pursued, including, where necessary the removal by the Council of the offending signage. It will also make it clear that the Council will also consider pursuing a prosecution where appropriate and particularly where there are multiple/repeat offences taking place.

#### **4 Alternative Options Considered**

- 4.1 Secure a Regulation 7 order for the specified areas.
- 4.2 This is not the preferred option as it would result in all Class 3(A) signage within the defined area needing to secure advertisement consent before it could be erected. This will affect everyone in that area, impact upon the speed of sales and lettings, including those who already comply with the requirements of the legislation and remove the sign boards.
- 4.3 A Regulation 7 direction would have a financial impact upon the Council by increasing the numbers of advertisement applications it is required to deal with but without being able to charge a fee as the application would be exempt under the fee regulations.

#### **5 Implications**

- 5.1 Financial and Budgetary Implications  
None
- 5.2 Legal and Governance Implications  
The proactive approach to investigating and enforcing such breaches is likely to increase the workload of the legal team in respect of enforcement action/prosecutions taken by the Council.
- 5.3 Risk Implications  
None
- 5.4 Corporate/Policy Implications  
None
- 5.5 Equality Implications  
None
- 5.6 Human Resources Implications  
None
- 5.7 Health and Safety Implications  
None
- 5.8 Social, Environmental and Economic Implications  
None

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**Background Papers:**