

EXECUTIVE BOARD – 18th July 2017

Subject:	Regulation 7 Direction Controlling Letting Boards
Corporate Director(s)/Director(s):	David Bishop. Deputy Chief Executive/Corporate Director of Development and Growth Paul Seddon, Chief Planner
Portfolio Holder(s):	Councillor Jane Urquhart Portfolio Holder for Planning, Housing and Heritage.
Report author and contact details:	Jo Briggs, Community Planner, Development Management Email: joanna.briggs@nottinghamcity.gov.uk Tel: 0115 8764041
Subject to call-in:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Key Decision:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Criteria for Key Decision:	
(a)	<input type="checkbox"/> Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision
and/or	
(b)	Significant impact on communities living or working in two or more wards in the City <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Type of expenditure:	<input type="checkbox"/> Revenue <input type="checkbox"/> Capital
Total value of the decision:	Nil
Wards affected:	Arboretum, Dunkirk and Lenton, Radford and Park, Wollaton East and Lenton Abbey and St Ann's
Date of consultation with Portfolio Holder(s):	January 2017
Relevant Council Plan Key Theme:	
Strategic Regeneration and Development	<input type="checkbox"/>
Schools	<input type="checkbox"/>
Planning and Housing	<input checked="" type="checkbox"/>
Community Services	<input type="checkbox"/>
Energy, Sustainability and Customer	<input type="checkbox"/>
Jobs, Growth and Transport	<input type="checkbox"/>
Adults, Health and Community Sector	<input type="checkbox"/>
Children, Early Intervention and Early Years	<input type="checkbox"/>
Leisure and Culture	<input type="checkbox"/>
Resources and Neighbourhood Regeneration	<input type="checkbox"/>
Summary of issues (including benefits to citizens/service users):	
<p>The current Regulation 7 Direction approved by the Secretary of State for Communities and Local Government (CLG), which allows for the statutory control of letting boards in the student housing areas of the city, expires on the 16th October 2017. This report seeks the approval of the Executive Board to apply to the Secretary of State for Communities and Local Government (CLG) to further the statutory control of letting boards, by means of a further Direction under Regulation 7 of the Advertisement Regulations, in the identified 'Letting Board Control Area' (see Appendix One).</p> <p>The key benefits of the control of letting boards for citizens have been the significant visual and environmental enhancement, improvements to community safety in these mainly residential neighbourhoods, together with the further protection of the special character of the conservation areas contained within it. The proposal would also make a continued positive contribution towards maintaining sustainable balanced communities in the area.</p>	

Exempt information: State 'None' or complete the following

None.

Recommendation(s):

- 1** To authorise the Chief Planner to make an application to the Secretary of State for a further direction under Regulation 7 Town and Country (Control of Advertisement) Regulations 2007, which withdraws 'deemed consent' rights for Class 3A of Schedule 3 for the display of residential letting boards in the Letting Board Control Area (Appendix One).
- 2** To authorise that the area to form the subject of the 'renewal' Direction be that outlined on the plan included as Appendix One.
- 3** To note that the successful delivery of the Direction's current enforcement regime and implementation procedures, involving the coordination of enforcement resources would continue upon 'renewal' of the Direction by the Secretary of State.
- 4** To delegate the authorisation to the Portfolio Holder for Planning, Housing and Heritage, in consultation with the Chief Planner to make further applications to the Secretary of State for all future directions under Regulation 7 Town and Country (Control of Advertisement) Regulations 2007 for letting boards.

1 REASONS FOR RECOMMENDATIONS

- 1.1 The large number of letting boards previously on display in the Area (Appendix1) visually detracted from the character and appearance of these predominantly residential neighbourhoods and the special character of the conservation areas contained within it. They were seen by the Police to contribute towards community safety by earmarking the nature and transient character of the population to those who would target the area for criminal purposes and have a negative impact on maintaining sustainable balanced community in the area.
- 1.2 The mandatory control of letting boards, over the last 5 years, together with the implementation of an effective enforcement strategy, including the production of the Lettings Board Design Guidance resulted in the immediate transformation in the environmental quality of these areas. The successful prosecution of repeat offenders in the final year of the Direction has also helped maintain control over its enforcement. A further Direction ("the renewal") would enable the Local Authority to continue with its enforcement policy which serves as a significant deterrent to others when deployed.
- 1.3 A further Regulation 7 Direction is considered to be crucial to both regulating and maintaining the current environmental quality of these areas, and generates a high turnover of tenants and therefore demand for letting boards.
- 1.4 The Area is considered to correspond with the main concentration of private rented property in the city which predominantly caters for the student markets.
- 1.5 The intention is to apply for a permanent Regulation 7 Direction for the Area. In the event that the Secretary of State permits only a further 5 year period, it is considered that the authorisation to apply for a further direction be

delegated to the Portfolio Holder for Planning, Housing and Heritage, in consultation with the Chief Planner.

2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

- 2.1 Letting boards are a category of advertisement that does not normally require consent under the Advertisement Regulations to display them on residential properties.
- 2.2 Increasing concerns were raised by citizens, local community groups and ward councillors about the excessive and unregulated amount of residential letting agents' boards being displayed for great periods of the year throughout the city, but particularly in areas containing high concentrations of private rental properties predominantly catering for the student market.
- 2.3 The number of letting boards was seen to be having a significant adverse impact on the visual and environmental quality of these neighbourhoods. The overall effect was that letting boards dominated the public realm to the detriment of the areas character and appearance. The problem was so serious in some streets that it appeared that every property was for rent.
- 2.4 Another major concern of many permanent residents was not only the visual impact of the boards but that they identify the area as one where there is a transitory population. This was seen to have the negative impact of reducing its attractiveness for single family occupation and contribute towards the change in the balance of a community through the further influx of mainly young single people occupying shared private rented accommodation. This would further undermine the City Councils and local objectives to create and maintain mixed balanced communities.
- 2.5 There was also community safety concerns allied to the display of letting boards as it is well known that many properties will be occupied by students and can highlight properties which remain vacant for large parts of the year. The Police had previously expressed concerns that student houses in particular are targeted for burglaries and the display of letting boards can contribute towards their easy identification to such crime which is exacerbated by the transient nature of their occupants.

Initial voluntary code

- 2.6 In response to growing local concern about letting board issues, Unipol Student Homes, in cooperation with Nottingham Action Group and Nottingham City Council, piloted a voluntary scheme to control their display, in June 2009.
- 2.7 Following an 8 month monitoring period, a report commissioned by Unipol concluded that the voluntary scheme had been unsuccessful in controlling proliferation of letting boards in the area and the number of boards had not been significantly reduced. The report concluded that it had only taken one or two boards to start appearing (apparently from the larger agents) and all the other agents felt pressure to put out boards in order not to lose competitive advantage.

The Current Direction and its Enforcement

- 2.8 As a result of the failure of the voluntary code, the City Council successfully applied to CLG for a Regulation 7 Direction, for the mandatory removal of deemed

consent to display letting boards in the areas of the city containing relatively high student populations and private rented properties (including Middleton Boulevard, Triumph Road, Lenton Triangle, Mansfield Road, Forest Road West, Harrington Drive area, Dunkirk and Lenton, Derby Road and University Boulevard). A plan of the Area is included in Appendix One. These areas directly related to the geographic proximity to main campuses of Nottingham University and the Queens Medical Centre in the western part of the city and Nottingham Trent University to the north of the city centre

- 2.9 The Direction came into force on the 16th October 2012 and runs for a 5 year period which expires on until 16th October 2017. A copy of the Direction is attached in Appendix 2.
- 2.10 The mandatory control of letting boards, together with the implementation of an effective enforcement strategy, including the production of the Lettings Board Design Guidance resulted in an immediate transformation in the environmental quality of these areas. Since the Direction came into force, in October 2012, proactive enforcement of the Direction has taken place, with reminders being sent to over 300 letting agents and landlords every year. Over 561 non-compliant boards have been reported by Community Protection Officers and subsequent notices served by the Planning Enforcement Team, of which all boards were removed. Each year the Area has largely been board free in the 3 month moratorium period (October to December).
- 2.11 This year the City Council prosecuted 6 repeat offenders. All were successful prosecutions. Costs were awarded to the Council in all cases and varying fines secured, of up to £1,300 per offence.
- 2.12 Whilst intensive enforcement action was required in the short term, it can be concluded that the behaviour of the majority of letting agents and landlords with properties in the Area has changed to comply with the current design approach. Compliance with design guidance has increased over the five years since the Direction has been in place, with many recognising that the residential streets within the Area have been visually enhanced.

The Proposal

- 2.13 It is proposed, subject to Executive Board approval, to apply to the Secretary of State for a new Direction for a further 5 years.
- 2.14 Portfolio Holder approval was granted in January 2017 to commence production of the submission and its written statement. The foundation of the submission will be based upon the success of the Direction over control the letting boards within the Area and evidence gathered to support the City Councils case for renewal.
- 2.15 A programme of publicity and consultation to seek comments from the main stakeholders of the City Council, concerning the intention to apply for a further Regulation 7 Direction was carried out in February and March 2017. It included ward councillors, MP's, local resident groups, letting agents and landlords, the two Universities and student unions. The Council received a total of 30 comments, all of which were in full support of the renewal of the Direction. All agree that the Direction has been successful in improving the appearance of the area, boosting sense of place and reducing signposting for criminals. It is also stated that, if the Direction is not renewed, the situation will rapidly return to that of prior 2012.

2.16 The intention is for the application to be submitted to the Secretary of State in early July 2017.

3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

3.1 Do nothing: To not apply for a further Direction. If the council takes no action, the existing direction will lapse in October this year. Evidence from enforcement activity during the current direction period suggests that there is still a high level of demand to display letting boards, and that without the additional control provided by the Direction, the number of letting boards on display is likely to rise to equal the numbers that were displayed prior to the Direction being put in place. Doing nothing is therefore not a realistic option, given the scale of the public concerns raised and the inability of the current Advertisement Regulation regime and previous voluntary codes to regulate the level of letting boards at an environmentally acceptable level.

4 FINANCE COLLEAGUE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY/VAT)

4.1 The application to the Secretary of State for a new direction has been prepared within existing resources at no additional cost to the City Council.

4.2 If there are objections to the application or a judicial review is required, further work could be required but this would be contained within the service resources. There are potential income sources (enforcement or planning application fees) which could be used to offset these, but these are expected to be minimal.

Advice provided by Susan Tytherleigh - 22.06.17

5 LEGAL AND PROCUREMENT COLLEAGUE COMMENTS (INCLUDING RISK MANAGEMENT ISSUES, AND LEGAL, CRIME AND DISORDER ACT AND PROCUREMENT IMPLICATIONS)

5.1 Secretary of State Rejection: there is a risk that the Secretary of State will not be satisfied with the evidence in support of the Council's case, on the issue of visual amenity. It is also possible that the Inspector will find that the existing deemed consent provisions are environmentally satisfactory in the areas affected. This risk can be minimised by submitting a robust case based on appropriate evidence.

5.2 Objection to the Proposed Order: The Secretary of State will invite by notice and consider any representations made in connection with the proposal. If objection is made to the Direction the Secretary of State may provide an opportunity to both a person making a representation and to the Council to appear before an Inspector. Submissions on planning and legal considerations would need to be made by the Council.

5.3 Major delay to Secretary of State Assessment: Consideration of the City Council's submission by the Secretary of State's on whether to make a Direction will take a period of time, as yet unspecified, and has the potential of being significantly extended due to procedural requirements in connection with any hearing. As a consequence the target time-scale for the making of a Direction capable of enforcement by October could be at risk of not being met but and is beyond the City Council to control.

- 5.4 Should the Direction ultimately be made, it would need to be publicised with an effective date of between 14 and 28 days later.
- 5.5 Judicial Review: Any decision of the Secretary of State could be the subject of judicial review proceedings. The Council would be an interested party in such proceedings, which would increase the Council's costs. There is the risk, albeit low, that any such application would lengthen the timescales involved with the proposal.
- 5.6 Resource Implications: Breach of the 2007 Advertisement Regulations is an immediate offence with no requirement of service of enforcement notices. During the current Direction period the Council successfully enforced against a number of letting agents/landlords and took steps to remove or obliterate offending advertisements. For those repeat offenders prosecuted, the Council was able to recover the costs incurred during the Court proceedings. In most enforcement cases offenders removed non-compliant boards without further resource implications to the Council.
- 5.7 There are no specific compensation provisions that appear to apply to a Direction made by the Secretary of State under Regulation 7.

Advice provided by Richard Bines - 22.06.17

6 STRATEGIC ASSETS & PROPERTY COLLEAGUE COMMENTS (FOR DECISIONS RELATING TO ALL PROPERTY ASSETS AND ASSOCIATED INFRASTRUCTURE)

6.1 None.

7 SOCIAL VALUE CONSIDERATIONS

7.1 The key benefits of the control of letting boards for citizens have been the significant visual and environmental enhancement, improvements to community safety in these mainly residential neighbourhoods, together with the further protection of the special character of the conservation areas contained within it. The proposal would also make a continued positive contribution towards maintaining sustainable balanced communities in the area.

8 REGARD TO THE NHS CONSTITUTION

8.1 N/a.

9 EQUALITY IMPACT ASSESSMENT (EIA)

9.1 Has the equality impact of the proposals in this report been assessed?

No



9.2 The Secretary of State's direction will render unlawful the display of temporary advertisements for letting properties that do not have the express consent of the Council. Property owners who wish to install such advertisements are affected. The Equality Act 2010 requires a public body when exercising a function to have due regard to the need to eliminate discrimination. However, since there is an equal impact on property owners wishing to let properties,

the question of discrimination does not arise and the Council's duty under section 149 of this Act is satisfied.

10 LIST OF BACKGROUND PAPERS RELIED UPON IN WRITING THIS REPORT (NOT INCLUDING PUBLISHED DOCUMENTS OR CONFIDENTIAL OR EXEMPT INFORMATION)

10.1 None.

11 PUBLISHED DOCUMENTS REFERRED TO IN THIS REPORT

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

11.2 Unipol Student Homes: Nottingham Voluntary Code of Practice for the use of Letting Boards April 2009.

11.3 Unipol Student Homes: 'The Voluntary Control of Letting Boards in Nottingham' August 2010.

11.4 Design Guidance for Letting Boards, Nottingham City Council September 2012.