

Leicester  
City Council

**WARDS AFFECTED**  
Castle, Westcotes, Western, Saffron

**PLANNING AND DEVELOPMENT CONTROL COMMITTEE**

**17 February 2016**

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**SUBMISSION TO THE SECRETARY OF STATE FOR A DIRECTION UNDER REGULATION 7 OF THE TOWN AND COUNTRY PLANNING (CONTROL OF ADVERTISEMENTS) REGULATIONS 2007 TO REMOVE DEEMED CONSENT RIGHTS FOR THE DISPLAY OF TO LET BOARDS WITHIN SPECIFIC AREAS OF THE CITY OF LEICESTER**

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**Report of the Director of Planning, Transportation and Economic Development**

**1. PURPOSE OF REPORT**

- 1.1 This report is to seek authorisation to apply to the Secretary of State for Communities and Local Government under Regulation 7 of the Town and Country Planning (Control of Advertisements) Regulations 2007 to remove the deemed consent rights for the display of to let boards within specific areas of the city, as set out in the report below.

**2.0 RECOMMENDATION**

1. That an application for a Direction under Regulation 7 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 to control the display of 'To Let' advertisements within areas of Clarendon Park, Knighton Fields, South Fields and West End as shown on the maps at Appendix 1 for an initial period of 5 years be submitted.
2. That, subject to the Secretary of State's approval, the Director of Planning, Transportation and Economic Development and the Head of Planning be authorised to take all necessary steps in order for the Direction to take effect and to operate in the designated areas.

**REASONS**

1. To provide a sound basis for the future management of 'To Let' boards in the interests of the amenity of area and prevent the visual clutter caused by the proliferation of 'To Let' boards.
2. To ensure that the requirements of the Direction are realised.

**3.0 SUMMARY**

- 3.1 The City Council has received many reports from local residents over the past 5 years about the high numbers of 'To Let' boards that are displayed on properties near to Leicester University, De Montfort University and Leicester Royal Infirmary, and the apparent permanence of these displays.
- 3.2 Under planning legislation 'To let' boards up to certain sizes can be displayed at properties providing that these are available for let, and that the boards are removed within 14 days of a tenancy being granted. It is an offence to display an advertisement without consent and prosecution action could be taken where displays do not meet the legislation, however it is very difficult for the Council to prove that properties are not available for let, or that a letting has only recently been concluded.
- 3.3 Measures have been taken to control the extent of displays through the use of a Voluntary Code of Practice introduced in November 2013. However, this has not achieved the desired results as will be shown below.
- 3.4 Introduction of a Regulation 7 Direction effectively brings letting boards fully into the control of the Council. The Direction would enable the Council to take prosecution action on a more expedient basis than at present. If a 'To let' board is displayed without consent after a direction has been made, it would constitute an immediate offence allowing action to be progressed quickly and effectively.
- 3.5 The process of making a Direction to remove the rights to display to let boards includes a consultation stage carried out by the City Council on behalf of the Secretary of State, and a subsequent final decision made by the Secretary of State, possibly following a Public Inquiry if this is considered necessary.
- 3.6 The Direction would require property owners or their letting agents to apply for advertisement consent to display 'To Let' boards. This would be in place for an initial period of 5 years. However, there are other options available such as display of advertisements inside the glass windows.
- 3.7 If the Direction is confirmed there will be a period of 3 months for agents to remove existing boards before prosecution cases were considered.

#### **4.0 REPORT**

- 4.1 Policy Context – Paragraph 67 of the National Planning Policy Framework (NPPF) states “Poorly placed advertisements can have a negative impact on the appearance of the built and natural environment. Control over outdoor advertisements should be efficient, effective and simple in concept and operation. Only those advertisements which will clearly have an appreciable impact on a building or on their surroundings should be subject to the local planning authority’s detailed assessment. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.”

Paragraph 68 of the NPPF goes on to state “Before a direction to remove deemed planning consent is made for specific advertisements, local planning authorities will be expected to demonstrate that the direction would improve visual amenity and there is no other way of

effectively controlling the display of that particular class of advertisement. The comments of organisations, and individuals, whose interests would be affected by the direction should be sought as part of the process.”

Policy CS3 of the Leicester Core Strategy adopted in 2010 states that the Council will require high quality, well designed developments that contribute positively to the character and appearance of the local natural and built environment. The policy sets out design objectives for urban form, connections and access, public spaces, the historic environment, and 'Building for Life'.

*Student Housing SPD* – Section 3 of the Student Housing SPD contains a commitment to investigate options available through the planning process to deal with to let boards.

### **Current Planning Powers**

- 4.2 The display of to let boards is controlled by Schedule 3, Part 1, Class 3A of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 which states that adverts relating to the sale or letting of a property can be displayed subject to the following conditions;
- (1) Not more than one advertisement, consisting of a single board or two joined boards, is permitted; and where more than one advertisement is displayed, the first to be displayed shall be taken to be the one permitted.
  - (2) No advertisement may be displayed indicating that land or premises have been sold or let, other than by the addition to an existing advertisement of a statement that a sale or letting has been agreed, or that the land or premises have been sold or let, subject to contract.
  - (3) The advertisement shall be removed within 14 days after the completion of a sale or the grant of a tenancy.
  - (4) No advertisement may exceed in area—
    - (a) where the advertisement relates to residential use or development, 0.5 square metres or, in the case of two joined boards, 0.6 square metre in aggregate;
    - (b) where the advertisement relates to any other use or development, 2 square metres or, in the case of two joined boards, 2.3 square metres in aggregate.
  - (5) Where the advertisement is displayed on a building, the maximum projection permitted from the face of the building is 1 metre.
  - (6) Illumination is not permitted.
  - (7) No character or symbol on the advertisement may be more than 0.75 metre in height, or 0.3 metre in an area of special control.
  - (8) No part of the advertisement may be higher above ground level than 4.6 metres, or 3.6 metres in an area of special control or, in the case of a sale or letting of part only of a building, the lowest level of that part of the building on which display is reasonably practicable.

- 4.3 The issue that the Council has faced with dealing with the legislation has been where signs are left on display for more than 14 days as it has proved difficult to establish the date of a grant of tenancy.

### **Context**

- 4.4 Leicester is home to two major Universities, the University of Leicester and De Montfort University. In 2013/14 the University of Leicester had 16,750 students, (13,570 full time), and De Montfort University, 19,645 students. (15,595 full time)
- 4.5 The areas proposed to be covered by the direction are those that have a high number of rented properties and they have been aligned with the Article 4 Direction that restricts new houses in multiple occupation, as the impacts on the area are related.

### **Measures taken to address To Let boards to date**

- 4.6 Reports of the numbers of 'To Let' boards displayed in the areas have been received on a consistent basis for a number of years and officers have attempted to deal with this by contacting agents and reminding them of the legislation. However, this has had a limited impact.
- 4.7 In June 2013, a consultation was carried out with residents and letting agents to ask for their views on a Voluntary Code of Practice for the display of 'to let' boards. The results of the survey indicated that, of those who responded, most residents were in favour of further control. The letting agents who responded were mostly in favour of the code and suggested changes to it. As a result, the Voluntary Code of Practice for the Display of Letting Boards was introduced on 20 November 2013. The voluntary code of practice is attached at Appendix 2.
- 4.8 Since the introduction of the Voluntary Code of Practice officers have carried out further surveys of the streets in the areas and the results indicate that the Voluntary Code of Practice has not had the desired effect. A survey carried out in October 2015 showed similar numbers of boards on display to the surveys carried out in January and February 2013.
- 4.9 A further public consultation was carried out between 26 March 2015 and 24 April 2015. The results showed that a significant majority of respondents were in favour of the Council applying for a Regulation 7 direction. A full analysis of the results is attached at Appendix 3. Conversely, 88 objections were received from landlords expressing concerns relation to marketing of the property to rent. These were in the form of a letter sent to them by Leicester Landlords Association and signed by individual landlords. The letter is attached at Appendix 4.
- 4.10 Of the 150 respondents to the online survey, 108 were owner occupiers, 5 were students, 3 were letting agents, 12 landlords, 15 tenants and 4 others.
- 4.11 Respondents were asked, on a scale of 1-5, "*how much of a problem do you think To Let boards are in your neighbourhood*", (with 1 being not a problem and 5 a very serious problem). Of the 150 respondents, 93, (62%), considered it to be a serious or very serious problem.
- 4.12 The survey asked respondents which option they supported to address the issue. 96 respondents (64%) were in favour of a complete ban, 31 favoured the continuation of the voluntary code and 21 were not in favour of either option.

- 4.13 Respondents were asked if they agreed with the suggestion that it would be acceptable to display one A4 sheet per property in the windows of properties that are available to rent to advertise this. 108 (72%) of respondents said yes and 42 (28%) said no.
- 4.14 The results of the consultation together with our surveys allow an informed decision to be reached. The majority of the respondents believe that the display of to let boards is a problem within their area and 30% consider it to be a very serious problem. 64% were in favor of a complete ban. The evidence of the surveys shows that voluntary codes are not effective in securing the improvement to visual amenity required.

## **Process of Submission**

- 4.15 In order to introduce formal control over the display of to let boards the Council will be required to prepare a detailed submission document to apply to the Secretary of State for a Direction under Regulation 7 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
- 4.16 If the application for a Regulation 7 direction is approved by the Government, then all letting boards would require advertisement consent. This option will make enforcement simpler and more effective as it would be illegal to display any external boards without advertisement consent. The property owners would be able to display signs inside the windows without consent.
- 4.17 Subject to your approval the application to the Secretary of State will be prepared and notice anticipated to be served in April 2016. Stakeholders will have 21 days to submit objections directly to the Secretary of State, who will then consider the application. There is no set timescale for a decision and previous applications have taken up to 12 months to be considered particularly if the Secretary of State takes the option of calling a Public Inquiry. If approved a second notice is then required to be publicised to implement the direction which would include a 3 month grace period for existing signs to be removed.
- 4.17 Other Local Authorities such as Nottingham, Leeds, Newcastle and Charnwood have been successful with applications for Regulation 7 directions in relation to letting boards. Like some of these authorities the City Council may adopt guidance setting out a scheme of advertisement that should be followed. However, it is considered that an external ban is justified in the context of the impact and evidence. Internal advertisements in individual properties would be sufficient to supplement extensive online advertisements, shop displays and websites used by agents.
- 4.18 It is therefore recommended that authorisation be given for an application to be submitted to the Secretary of State for a Direction under Regulation 7 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 to control the display of 'To Let' advertisements within areas of Clarendon Park, Knighton Fields, South Fields and West End as shown on the maps at Appendix 1.

## **5.0 FINANCIAL, LEGAL AND OTHER IMPLICATIONS**

### **5.1.1 Financial Implications**

There will be staff costs, advertising costs and possibly Inquiry costs of introducing the direction. There may also be some applications to display signs which previously did not need consent

and these will be exempt from a planning application fee. These costs will be covered within existing budgets.

Paresh Radia Finance x 454 4082

## **5.2 Legal Implications**

- 5.2.1 The Council is entitled to restrict the deemed consent proposed to seek the removal of the display of adverts of any class shall not be permitted in the specified areas as referred to in paragraph 2.1 without express consent from the Council.
- 5.2.2 Regulations 7 of the Town and Country Planning (Control of Advertisements) Regulations 2007 enables the Council to ask the Secretary of State to direct that express consent is required before advertisements for which deemed consent would otherwise be available may be displayed. The Council will have to undertake a full consultation process on the proposed direction restricting deemed consent that could result in representations and objections to the proposed direction which the Secretary of State will have to take into consideration when determining whether the deemed consent for the display of adverts shall not apply to the specified area for a specified period or indefinitely.
- 5.2.3 The Secretary of State will not make a direction until the consultation period has expired. In determining whether to make a direction the Secretary of State will consider any representations to the proposed direction. If any of the representations are objections to the proposed direction the Secretary of State will give them an opportunity to attend a hearing and make their representations in person to the Secretary of State or their representative. The Council will be given a reasonable opportunity to respond to any representations.
- 5.2.4 The Secretary of State when determining whether to restrict the deemed consent for the display of adverts can make a direction as proposed by the Council or they can modify the proposal and the area that it will apply to for a specified period or indefinitely.
- 5.2.5 Where the Secretary of State makes a direction it will be confirmed in writing to the Council with a statement of their reasons for making the direction and a copy will be sent to everyone who made a representation. The Council will publish the direction and Notice of making the direction on all the owners and occupiers in the area affected by the direction. The direction will come into force on the date that all the all the owners and occupiers in the area affected have been served with the direction. There is no right of appeal or challenge against the Secretary of State's direction.

Amanda Nauth, Solicitor, Legal Services

## **5.3 Climate Change Implications**

This report does not contain any significant climate change implications and therefore should not have a detrimental effect on the Council's climate change targets.

## **5.4 Risk Assessment Matrix**

| <b>Risk</b>     | <b>Likelihood<br/>L/M/H</b> | <b>Severity Impact<br/>L/M/H</b> | <b>Control Actions<br/>(if necessary/appropriate)</b>   |
|-----------------|-----------------------------|----------------------------------|---|
| Judicial Review | L                           | M                                | Ensure decision to make Regulation 7 direction is lawful, rational, reasonable and procedural fair. |

## **6.0 OTHER IMPLICATIONS**

| <b>OTHER IMPLICATIONS</b>     | <b>YES/NO</b> | <b>Paragraph references within the report</b> |
|-------------------------------|---------------|---|
| Equal Opportunities           | <b>No</b>     |   |
| Policy                        | <b>Yes</b>    | <b>4.1</b>                                    |
| Sustainable and Environmental | <b>No</b>     |   |
| Crime and Disorder            | <b>No</b>     |   |
| Human Rights Act              | <b>No</b>     |   |
| Elderly/People on Low Income  | <b>No</b>     |   |
| Corporate Parenting           | <b>No</b>     |   |
| Health Inequalities Impact    | <b>No</b>     |   |

## **7.0 BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972**

Student Housing SPD (Adopted June 2012)

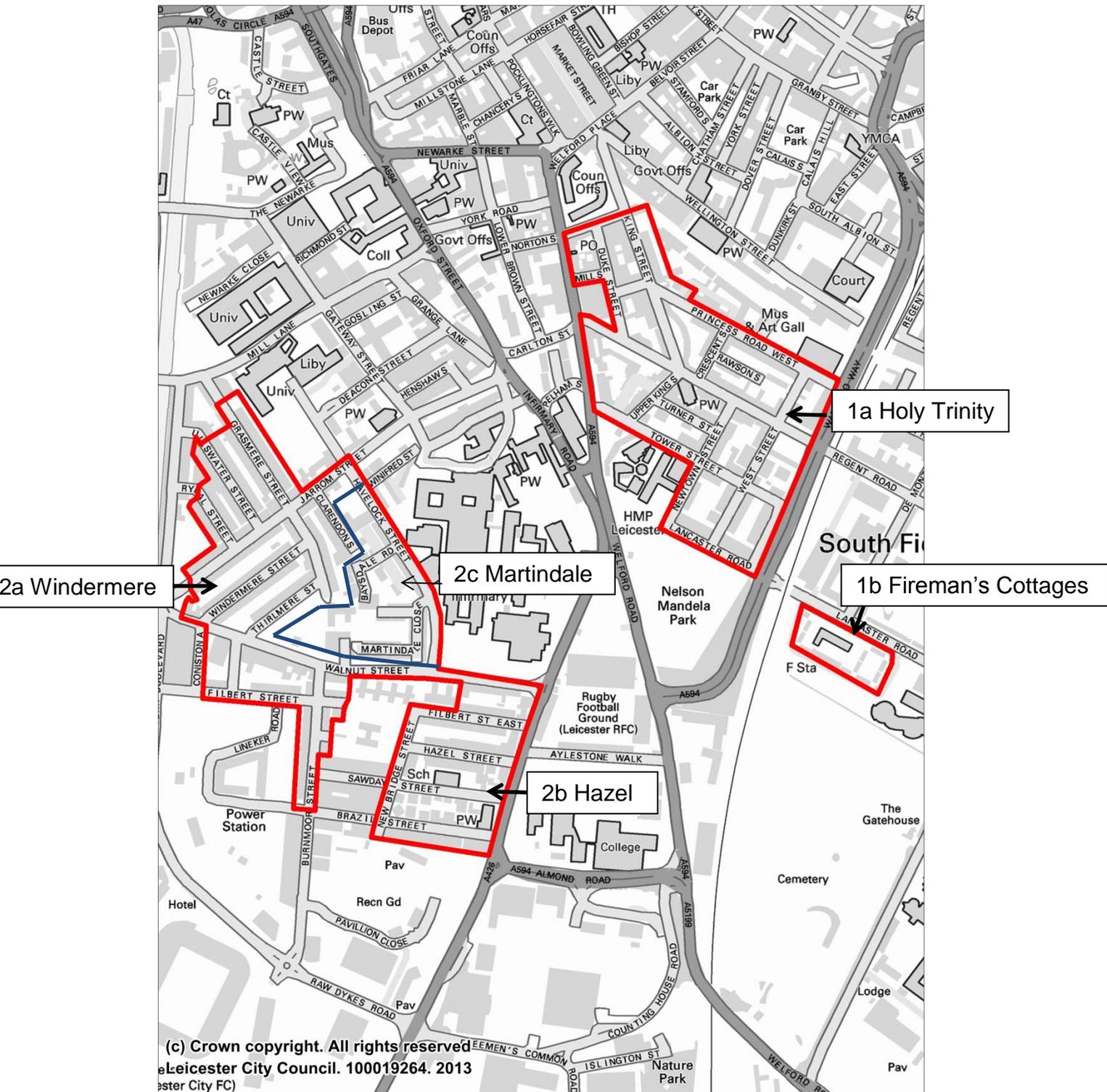
## **8.0 CONSULTATIONS**

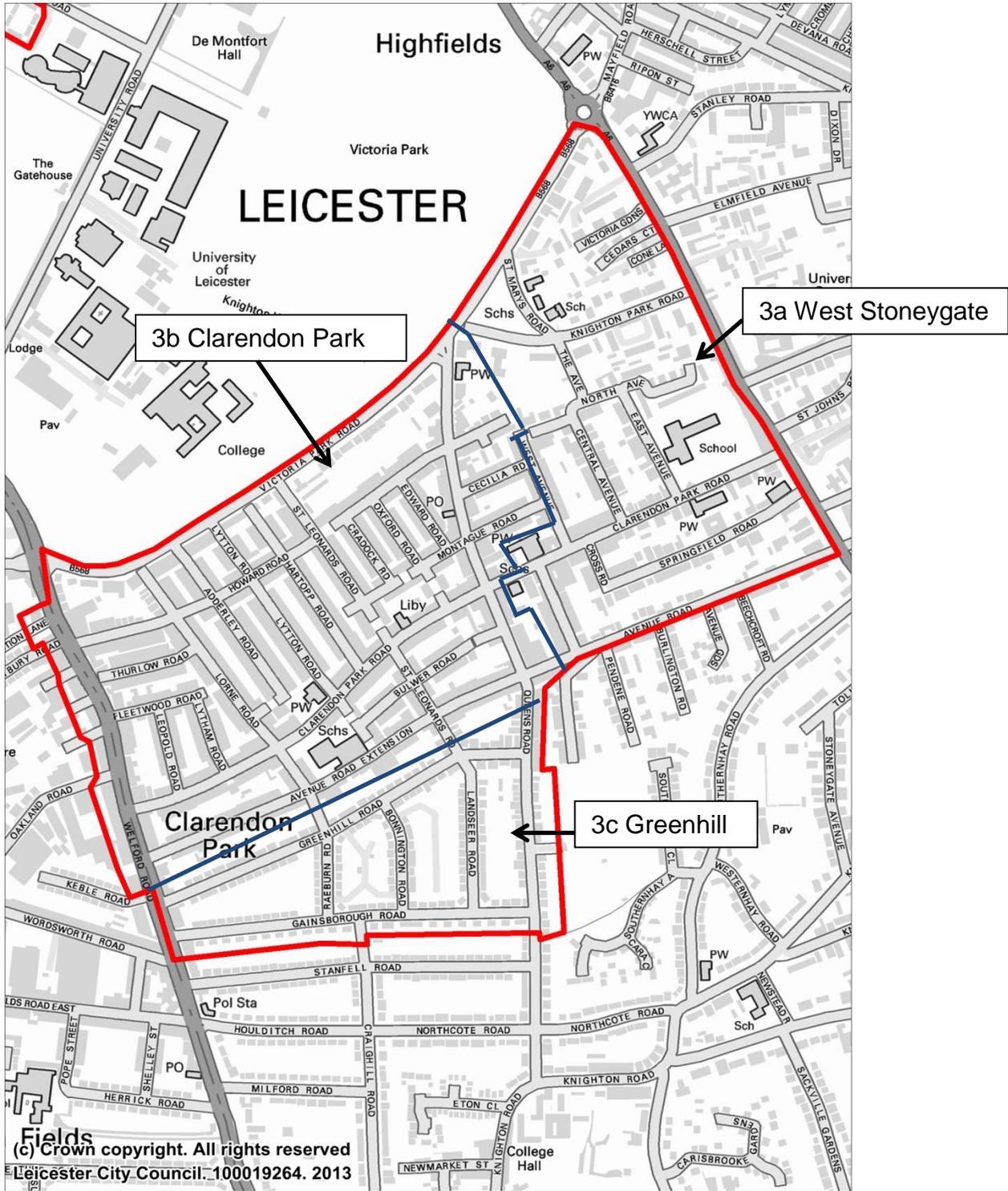
Consultations will be carried out as set out in this report.

## **9.0 REPORT AUTHOR**

Alan Beckett Planning, Transportation & Economic Development

# Appendix 1: Plan of area for proposed Regulation 7 direction

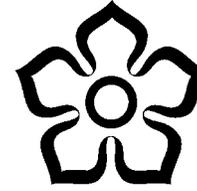






## Leicester City Council

### Voluntary Code of Practice on Lettings Boards



Leicester  
City Council

1. To Let' boards must be removed not later than 14 days from the date of the tenancy being granted or when the property is otherwise effectively taken off the market for the next academic year.
2. All To Let boards should be removed from 1<sup>st</sup> September to 1<sup>st</sup> January the following year
3. Boards for properties that are new to the market for the following academic year shall not be put up until 1<sup>st</sup> January of that year.
4. Signs may remain up for properties that are *either* unoccupied and immediately available *or* where they are being marketed other than in an annual let coinciding with the academic year, for example 'professional' lets.
5. Slips with 'Let', 'Let By' or similar wording may be used but must be removed along with the main board as under item 1.
6. Boards should be mounted on buildings and should not be placed on posts in the gardens or the grounds, with the exception of premises where the distance from the outer dwelling door to the back edge of the pavement is more than 5 metres or where a restrictive covenant in the freehold or the lease between the freeholder and leaseholder precludes attachment to the property.
7. Boards should be no more than 0.5m<sup>2</sup> in area.

20 November 2013

### Appendix 3: Analysis of results of consultation

The consultation ran between 26 March 2015 and 24 April 2015 and was carried out online and by sending questionnaires to letting agents known to operate within the City. Site notices were also displayed on every street in the area already covered by the voluntary code. A total of 238 responses were received. 150 of these were to the online questionnaire and 88 were received by e-mail. The 88 that were received by e-mail were of a standard response which said

“I am strongly against Leicester City Council’s proposal to apply for to the Secretary of State for Communities and Local Government for a Regulation 7 direction to ban To Let boards in the proposed areas of Leicester.

I believe that this proposal is unfair. A blanket ban punishes landlords and agents for the faults of a few non-compliant agents.

The proposal will have a serious detrimental effect on the letting of my property and therefore the rental income I receive. This may lead to passing on this added cost onto the tenant in the form of increased rent.

I therefore oppose the proposal ban and would urge Leicester City council to fine non-compliant agents as an alternative.”

These were from landlords of properties who had received communication from the Leicester Landlords Association advising that the City Council was banning the use of to let boards.

The following is an analysis of the 150 respondents to the online survey.

#### RESPONSES

##### Question 1

Respondents were asked whether they were a homeowner, student, letting agent, landlord, tenant or other.

Responses were as follows;

|                          |     |         |   |               |   |          |    |
|--------------------------|-----|---------|---|---------------|---|----------|----|
| Owner/occupier           | 108 | Student | 5 | Letting agent | 3 | Landlord | 12 |
| Tenant (Private/Council) | 15  | Other   | 4 |               |   |          |    |

Of the others 1 was a shop tenant, 1 was a relative of a resident, 1 was the Leicester Landlords Association and the other was an installer of boards.

This shows that there has been a wide range of response to the consultation from different parties and the results could be used to reach an informed decision.

##### Question 2

Respondents were asked on a scale of 1-5 how much of a problem do you think To Let boards are in your neighbourhood with 1 being not a problem and 5 a very serious problem. Responses were as follows

- 1 = 21 (not a problem)
- 2 = 12
- 3 = 24
- 4 = 49
- 5 = 44 (A very serious problem)

This shows that the majority of the respondents believe that the display of to let boards is a problem within the area and 30% consider it a very serious problem.

### Question 3

Respondents were asked which of the three options available to the Council they were in support of. The responses were as follows

Voluntary Code  Complete Ban  Neither

The responses to this question suggest 65% of respondents support a complete ban.

Respondents were also given an opportunity to make comments on this proposal and 72 of the respondents did so. The majority of these were comments about why the Council should be taking further action.

### Question 4

Respondents were asked if they agreed to a suggestion that A4 posters be displayed in windows of properties that were to let. 108 (72%) respondents thought that this was a good idea and 42 said that it was not.

### Question 5

Respondents were asked to suggest other options for acceptable advertising of properties that are to rent.

44 responses were received including limiting agents to one board per street, Quick Response codes in windows, A4 size boards, online advertising, displays in agents shop windows, providing information through the Universities.

These suggestions will be considered within the submission document.

The results of the consultation show that on balance it is expedient to seek formal control in the interests of the visual amenity of the area.

## Appendix 4.

### Letter sent to landlords from Leicester Landlords Association

I am writing regarding a very important issue Leicester City Council has raised regarding To Let boards in Leicester.

The council are planning to apply for a blanket ban on To Let boards in selected areas across Leicester, namely Clarendon Park, Knighton Fields, South Fields and the West End.

Details can be found on the council website at <http://consultations.leicester.gov.uk/city-development-and-neighbourhoods/to-let-boards-consultation> or by calling the COUNCIL ON 0116 4543012.

To Let boards are a vital means of advertising your property's availability. A huge number of enquiries come from potential tenants spotting boards in their preferred areas and calling the agent. Banning their use will slow down the renting of your property thus leading to longer void periods. In short this council policy WILL COST YOU MONEY.

The council are running a consultation on this policy which closes on 24<sup>th</sup> of April 2015. This consultation has not been adequately advertised, therefore many landlords and agents are not aware of the danger to their business.

Legislation is already available under the Town & Country Planning Regulations 2007. Instead of enforcing this to punish offending agents, the council are proposing an outright ban on all boards. Such a blanket ban will have a serious effect on your income for the faults of a few non-compliant agents.

Our concern is that if this scheme is implemented then it could also roll out to other area, even if you don't own properties within these areas, it's important you are aware.

It is imperative that your voice is heard to avoid the council introducing this policy through the back door. I would STRONGLY ADVISE you to contact the council immediately to object to the implementation of this policy. You can register your objections to the proposal by e-mailing Alan Beckett at [planning@leicester.gov.uk](mailto:planning@leicester.gov.uk) Alternatively, you can copy and paste the message below and email it to the council using the same email address.

FAO Alan Beckett

I am strongly against Leicester City Council's proposal to apply for to the Secretary of State for Communities and Local Government for a Regulation 7 direction to ban To Let boards in the proposed areas of Leicester.

I believe that this proposal is unfair. A blanket ban punishes landlords and agents for the faults of a few non-compliant agents.

The proposal will have a serious detrimental effect on the letting of my property and therefore the rental income I receive. This may lead to passing on this added cost onto the tenant in the form of increased rent.

I therefore oppose the proposal ban and would urge Leicester City Council to fine non-compliant agents as an alternative.

Yours sincerely