

27 July 2015



The Excessive Advertising of Student Accommodation in Durham City

Key Decision [NUMBER] Del if necessary

Purpose of the Report

Evaluation of evidence to date of the controls in place to seek controlled reduction in the display of advert boards promoting properties available for student accommodation in designated Durham City Conservation Area. This will establish the effectiveness of the implementation of the Voluntary Code of Practice, in respect of a reduction in the number and actual timescale of Estate Agents & Landlords displaying advert boards relating to properties available to let as houses of multi shared occupation, and to make recommendations for future procedures.

Background

For several years the local community and resident groups have raised concerns regarding the issue of increased residential letting boards on display in areas within the Durham City Conservation Area. Whilst these act as a direction to the students of property available to let for future terms, they also promote high proportions of multi occupied properties available in the central area of the city which is considered by residents to be detrimental to the enjoyment of permanent residents and also to tourists visiting the beautiful asset of the famous Cathedral & Castle, and the surrounding complementary features.

There is a view that the excessive advert boards in certain times of the year are unnecessary and have a detrimental adverse effect upon the visual amenity of the area which is predominantly residential. This report sets out the evidence collated to date to seek a solution involving voluntary controls of the letting boards displayed within the neighbourhoods of the Durham City Conservation Area, which also lies in the backdrop of the World Heritage site of the peninsula of Durham Cathedral.

Letting Boards are classed as an advertisement and are regulated by the Local Planning Authority under Class 3A, Schedule 3, Part 1 of the Town and Country Planning (Control of Advertisements) Regulations 2007. They are considered as "deemed consent" whereby express planning approval from the Local Authority is not required for their display so long as the Sale / Letting boards displayed, met the following criteria ;

- maximum one sign (including one per individual flat)
- only "for sale or let" signs
- removal within 14 days of sale or letting of property
- maximum size for residential signs 0.5m² (0.6m² conjoined boards)
- maximum size for non-residential signs 2m² (2.3m² conjoined boards)
- maximum projection from building 1m
- maximum symbol height 0.75m
- maximum height above ground 4.6m, or lowest practicable height if relating to part of building
- no illumination.

This is where the situation causes conflict because there is no restriction on how soon an advert can be displayed only that it must be removed within 14 days after a new tenancy has completed, i.e. contacts signed and financial matters in place. Under the statutory controls there is also no limitation on the cumulative number of boards that can be displayed in a street. When the conditions as stated in the legislation are not met by the letting agents, planning enforcement action can be taken but this can be time consuming particularly if the issue relates to the board not been removed in the designated 14 day period. To establish the facts relating to the legitimacy of the display can be difficult to prove because confirmation of completion

can be complex, plus in houses of multi occupation there can be a vacancy in a single room which permits the display.

Following various consultations with stakeholders including local residents, the local property and letting agents and Local Member of Parliament the Council have taken action to help alleviate the problem.

In 2011 a Voluntary Code of Practice was introduced to encourage the landlords and agents to control the number and timescale of boards on display. It provided a limit on the number of boards, size of boards and the period of which they were displayed within specific streets in the Durham City Conservation Area. This was subsequently reviewed in 2013 and again in 2014 after the initial implementation in 2011. Following the reviews it was amended to include other residential streets and adjust the timescale of adverts displayed, (copy in Background Appendices)

It is now under consideration as to how successful this Voluntary Code has been and whether it is sufficient or whether more formal control is needed which would require an Article 7 Direction under the Town and Country Planning (Control of Advertisement) Regulations to be imposed.

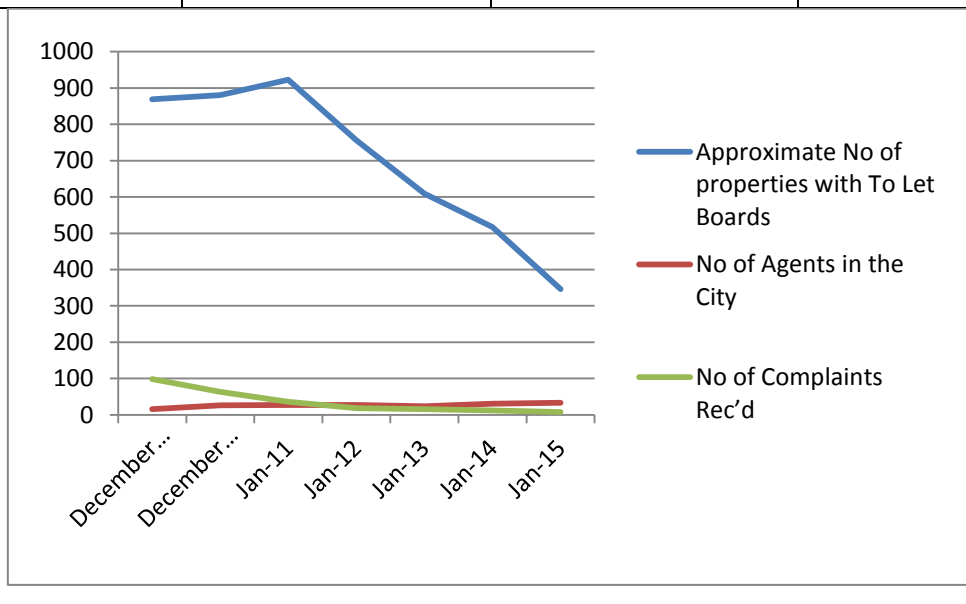
Despite the Council's attempts to foster good working relationships with the parties involved, including promotion of good results in local media and newsletters of how the Code had improved the affected areas, complaints continue, albeit these are now much reduced from the number of complaints being received historically. Planning enforcement investigations have been conducted on those that failed to operate within the guidance of the Code, however the majority of these cases were resolved when officers contacted the companies to reiterate the controls, they were advised it had been an oversight and the boards would be removed. In some cases, landlords legitimately argue that one room remained vacant and therefore were permitted to display a board.

It was important to monitor the display of the advert boards to assess whether the numbers are reducing as an effect of the intervention from the Council. The figures

were taken from the areas which included approximately 1190 properties, where less than 10% remain as full time occupied by the owner, so non student households.

General survey results on agents/ boards & complaints for period 2009 to 2015

Survey Date	Approximate No of properties with To Let Boards	No of Agents in the City	No of Complaints Rec'd
December 2009	869	16	99
December 2010	880	26	63
January 2011	923	27	36
VOLUNTARY CODE IMPLEMENTED			
January 2012	756	27	18
January 2013	609	24	16
January 2014	517	31	12
January 2015	346	33	8



The key findings from these have been:

- The number of agents / landlords operating within the designated area have increased by more than 100%
- The number of advert boards did increase for a short period but have now decreased by 40% in the last two years since the latest Code was implemented. The increase was probably due to the new agents operating

who were unaware of the Code but swiftly appeared to have agreed to comply hence the reduction in boards in 2012.

- The number of complaints being recorded as requiring action has significantly dropped, which supports cooperation from the agents. Those that were reported generally resolved after removal of the boards which had been apparently an oversight.

These figures support the effectiveness of the Voluntary Code has been proven as a success when comparison made with the figures from recent years to pre introduction of the Code.

A survey was carried out in May 2014 to obtain comments from stakeholders regarding the situation within the Conservation Area since the initial implementation of the Voluntary Code .It requested how much of a visual problem the To Let boards had on the amenity, and how successful they felt that he Code had been plus any other related relevant comments. Despite not all agents embracing the Code, and two major participants abstaining, there was little feedback from this short survey which suggested that the display of letting boards' problem was no longer a major concern.

This was also followed with meetings between council officers and members of the groups who initially raised the concern of the excessive display of adverts related to student accommodation. The overall opinion from these individuals denied an improvement which met with their expectation of a complete ban on the use of advert boards within the designated areas, and therefore requested the Council sought a Regulation 7 direction from the Secretary of State.

Recommendations and Reasons

Not all stakeholders consulted agreed that the Code has been fully successful, but their objectives for a complete ban on adverts are considered unrealistic and contrary to the already acceptable requirements of the Voluntary Code, plus it would

be conflicting to the guidance of the Town and Country Planning Advertisement Regulations.

To support this decision comparison has been made between the situation in Durham City with that experienced by other university areas with similar issues, and assessing how they reacted to seek a solution. It is acknowledged that there is no direct comparison and the makeup of HMOS across a geographical area varies significantly city to city. The available comparisons are Local Authorities with a different intensification due to smaller and larger areas than compared to Durham, with differing results and actions taken. An example being research from Leeds Council confirmed their area was far larger than Durham but the application for a Regulation 7 was refused by the Secretary of State due to insufficient evidence of harm and detrimental impact.

Furthermore the information obtained from surveys, inspections and reduction in complaints has demonstrated a reduction in the number of advert boards on display which does contribute to achieving the objective. Evidence from officers' research confirmed that there was significant improvement to the visual amenity within the Conservation Area, which was a main issue of the Authority's and Member's concerns on behalf of the residents.

It is therefore recommended a Regulation 7 application would be inappropriate because the Code has reduced the number of advert boards and effectively enhanced the visual impact on the amenity within the designated areas which is evident from inspections and photographs. In this respect and in accordance to the guidance of NPPF, such action could be considered unreasonable and unjust because enforcement action is discretionary by the Local Planning Authority where demonstrable harm needs to be confirmed and other methods proven ineffective.

Furthermore there is no guarantee that the application for the Direction would be approved because comparing the situation in Durham City to other areas who have applied has shown the problem to be on a much lesser scale. The information obtained from the research undertaken strongly supports that the Code has been a success despite the feedback from the stakeholders. The reason they remain

dissatisfied is because their aims are unrealistic for a blanket policy of NO advert boards at all. This conflicts to the already accepted criteria of the Voluntary Code and the current planning legislation. There is scope to make further amendments to the Code which will increase its effectiveness, such as extending the area involved, restricting the permitted timescale of adverts displayed and also the locations.

It will also be recommended that closer monitoring from Planning Officers can promote formal enforcement action where breaches of the Legislation are proven. This will involve a possible one strike and out approach, whereby offenders will be formally warned of the consequences if they fail to adhere to the requirements of actual legislation. This would then involve the Council then taking a zero tolerance approach and instigating prosecution proceedings against offenders in the magistrates courts which could result in a fine imposed, which would then increase if offenders continued to display the displayed adverts.

The recent introduction of an additional licensing Scheme operated by a joint agency approach consisting of the University and various Council departments will also enable a controlled approach to be implemented. This will involve the landlords agreeing to set requirements, such as environmental and public health and special tenancy contracts, and compliance to the Voluntary Code in order to obtain accreditation as an approved landlord recommended to the prospective student tenants. If they fail any aspect of the scheme then they are removed from the list of accredited landlords.

The Council will continue to monitor the practice and success of the other local authorities who have the same objectives, and use the success or failure of their Article 7 & Voluntary Code operations as a form of mentoring for achieving future objectives. In particular the results from the larger neighbouring authority Newcastle City Council will be relevant but the effects of the restrictions of the Article 7 will only become noted in the autumn of this year.

There is also the opportunity for further amendments to the Voluntary Code as and when considered appropriate after ongoing continuous reviews with stakeholders. These could involve an extension of the period which the Code operates , which is

currently three months (1st November to 31st January), and could extend a greater timescale such as even eleven month period.

Background papers

Voluntary Code of Conduct on letting Boards in Areas with High Proportions of Shared Housing – September 2014

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Appendix 1: Implications

Finance -

Staffing -

Risk -

Equality and Diversity / Public Sector Equality Duty -

Accommodation -

Crime and Disorder -

Human Rights -

Consultation -

Procurement -

Disability Issues -

Legal Implications -