

<b>Subject:</b>	<b>Estate and Letting Agent Board Pilot Project Review</b>		
<b>Date of Meeting:</b>	<b>22 November 2018</b>		
<b>Report of:</b>	<b>Executive Director, Economy, Environment &amp; Culture</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Clare Flowers</b>	<b>Tel: 01273 290443</b>
	<b>Email:</b>	<b>clare.flowers@brighton-hove.gov.uk</b>	
<b>Ward(s) affected:</b>	<b>All</b>		

## **FOR GENERAL RELEASE**

### **1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 This report reviews the outcomes of a pilot project for the voluntary management of residential sales and letting boards in the Coombe Road Area which was implemented in response to a request from Tourism Development and Culture Committee and following a notice of motion from Council. The report also recommends a way forward for managing sales and letting boards, outside the Regulation 7 Area, in the context of planning legislation and available resources.

### **2. RECOMMENDATIONS:**

- 2.1 That the committee notes the actions undertaken as part of the Coombe Road Area Pilot Project - a scheme for the voluntary management of lettings and sales boards agreed by the Economic Development & Culture Committee in November 2016 (implemented between June 2017 and June 2018) and the outcomes.
- 2.2 That the committee agrees the preferred option set out in the report which acknowledges that ongoing support for mitigating impacts from estate and letting agent boards will be supported by the Field Officer Team under their agreed citywide functions.

### **3. CONTEXT/ BACKGROUND INFORMATION**

- 3.1 In July 2016 a Notice of Motion from Council was referred to the Economic Development & Culture Committee (EDCC) to extend a regulatory ban on Estate Agent boards to other central parts of the city (the Regulation 7 Direction).
- 3.2 In terms of background, the Advert Regulations (Town and Country Planning (Control of Advertisements) (England) Regulations 2007) grant deemed consent for certain types of advertisements, including sales and lettings boards. The deemed consent for sales and lettings boards is subject to a condition (inter alia) that the board must be removed within 14 days after the completion of a sale or the grant of a tenancy'. Deemed consent may be restricted by means of a direction made under Regulation 7 of the Regulations. National Planning Practice Guidance (PPG) states that to impose a direction *'it must be clear that one or more of the deemed consent provisions has had such adverse effects on the*

*amenity or public safety of the area that there is no prospect of an improvement in the quality of advertising in the locality, unless the local planning authority is given the power to control that particular type of advertisement.'*

- 3.3 A previous application to the Secretary of State for a Regulation 7 Direction across 15 central conservation areas resulted in approval for only 10 conservation areas to be fully covered by these extra controls. The five other conservation areas were refused this restriction in part or in full on the basis that the test for '*adverse effects on the amenity or public safety*' were not met.
- 3.4 In November 2016 the Economic Development & Culture Committee resolved:
- i) That the Committee notes the Secretary of State's previous conclusion that the criteria for a Regulation 7 Direction is not met by Hove Station, Old Hove or Old Town Conservation Areas or sections of Regency Square and Valley Gardens Conservation Areas and specifically excluded these areas from the Regulation 7 Direction granted in 2010 (Appendix 3).
  - ii) That the Committee agrees a pilot scheme in the Lewes Road Area for the voluntary management of residential sales and letting boards which would include the preparation of guidance outlined in para. 3.8 and existing Housing Partnership work. The outcomes of the scheme will be brought back to this committee for review after an operating period of one year and considered for extension to a wider area.
  - iii) That the Committee agree to review the decision not to pursue an expansion of the Regulation 7 Direction if there is a substantive change to the law, or the character of the area in question.

### **Pilot Scheme Aims and Actions**

- 3.5 The aim of the Coombe Road Area Pilot Project was to introduce a voluntary management scheme to test ways to reduce adverse impacts of residential sales and lettings boards. The Coombe Road area was selected as it has a clear area boundary and is characterised by residential terraces set close to the pavement.
- 3.6 The Voluntary Code of Good Practice (Appendix 1) promoted the display of internal ground floor window advertisements or wall mounted boards in place of freestanding boards installed adjacent to the pavement. The code recommended that lettings boards for the following academic year should not be installed until the start of February of that year and should be removed 14 days after the property is let or otherwise effectively taken on the market for the next academic year.
- 3.7 The scheme was supported by a bespoke council webpage outlining project aims and ways communities, estate and letting agents could get involved. The voluntary code, a map of the pilot area and a list of streets were available to download or view.
- 3.8 Prior to commencement, officers met with the Southern Landlords Association and the Brighton & Hove Estate Agents Association. All agents of Houses of Multiple Occupation (HMOs) identified on the Private Sector Housing register for the Moulsecoomb & Bevendean Ward and other estate and letting agents known to operate in the area from site visits prior to June 2017 were emailed with Pilot Project information, with feedback invited. The Pilot Project was promoted

through the Coombe Road Area Local Action Team(Coombe Road Area LAT), the Strategic Housing Partnership, the Rent Smart scheme and the University of Sussex and University of Brighton.

- 3.9 Baseline information was gathered at site visits in January and March 2017, and within the pilot project period regular site visits were carried out every 8 - 10 weeks. Properties displaying to let, let by, for sale and sold boards were logged and the agent responsible for each board was noted.
- 3.10 In November 2017 an emailed reminder of the pilot project and its aims was sent out to all known local agents. At the same time, individual agents responsible for 13 specific sold and let by signs noted at consecutive site visits (and thus unlikely to benefit from deemed consent) were informed of enforcement review if those boards were still in place two weeks after receipt of notification.
- 3.11 At the end of the pilot project feedback was obtained from the two agents most active in board display.

### **Key Findings**

- 3.12 The pilot scheme was not successful in terms of achieving any significant voluntary reduction in numbers of estate or letting agent boards in the pilot area, despite periodic liaison with agents and monitoring by officers. There were no recorded instances of boards being replaced by the use of window advertisements.
- 3.13 The most effective method of securing the removal of boards occurred through officer contact with agents regarding potential enforcement action over specific longstanding boards. The majority of agents contacted in this way replied to confirm immediate action; and resulted in the removal of all 13 boards by the time of the subsequent site visit.
- 3.14 During the course of the pilot project four residents contacted the council referencing boards in connection with the voluntary Code of Good Practice. Two of these complaints were opened as planning enforcement cases. The January 2018 Coombe Road Area LAT meeting noted an increase in boards in the area.
- 3.15 Some registered agents initially contacted the council to identify that they did not use boards in their marketing. However for those that displayed boards, the recommendations in the Voluntary Code were not taken up. Key feedback from agents was that the use of boards:
  - identify that a property is available and can result in a sale
  - show the property location for arranged viewings, saving staff time waiting at the property
  - advertise and demonstrate an agent's market presence to tenants, landlords and vendors in a competitive environment where new HMOs are restricted

More details of the pilot project findings are included in Appendix 2

## **Moving forward - Preferred Option**

- 3.16 Option 1 – Preferred – It is considered that the new Field Officer role (agreed during the pilot project) offers an opportunity to support management of estate and letting agent boards. Field Officers support work across nine service areas, including aspects of planning enforcement. Methods tested through the pilot project show that the most effective activity in reducing overall number of boards is from direct officer contact with residential agents in relation to specific boards. In terms of current resources, already included in the scope of Field Officer work is planning enforcement support for unauthorised signs and proactive work to promote community collaboration and behaviour change. Options 2 and 3 are set out below.

## **4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 4.1 Option 2 – Proactive monitoring of sold and let by boards to identify boards which may no longer be granted deemed consent. This is not a recommended option due to the limited resources available to the Planning Enforcement Team and the consequent need to prioritise action. An up to date Planning Enforcement Policy, which identifies priorities for enforcement action, was agreed by this committee on 27 September 2018. Unauthorised signs are a lower priority for action.
- 4.2 Option 3 – Applying for a Regulation 7 Direction. Given prior experience of the high bar set by the Secretary of State for their approval, and with no change to the legislation and no substantive change in national planning practice guidance with respect to Regulation 7 Directions, it is the view of officers that repeating the process of applying for a Regulation 7 Direction would not be a good use of resources, and for these reasons is not a recommended option.

## **5. COMMUNITY ENGAGEMENT & CONSULTATION**

- 5.1 The community engagement set out below took place in accordance with the key principles of the Community Engagement Framework.

### **Before pilot implementation**

- 5.2 Community consultation took place with Coombe Road Area LAT and included presentation and discussion of the proposed pilot project at a Coomb Road Area LAT meeting.
- 5.3 A meeting was held at the University of Sussex to discuss the pilot project. The Strategic Housing Partnership, Rent Smart scheme and University of Brighton were also consulted and all views were sought.
- 5.4 Officers met with the Southern Landlords Association as well as Brighton & Hove Estate Agents Association (BHEAA), who took the scheme to BHEAA members and confirmed their support. Emails and information were sent to all Private Sector Housing registered HMO agents in the Moulsecoomb & Bevendean Ward as well as agents noted to operate in the area through site visits prior to scheme implementation; and their views were sought.
- 5.5 A press and social media release supported the launch of the pilot project.

## **During the scheme**

- 5.6 In November 2017 pilot project reminder emails were sent out to all estate and letting agents known to be active in the area; and agents of 13 longstanding sold and let by signs were informed of enforcement review. Responses were noted and have helped inform the preferred option.

## **Post Pilot Scheme feedback**

- 5.7 The two agents evidenced as the most active in displaying boards in the pilot scheme area were visited. Their feedback was noted (para 3.14) and has helped inform the preferred option.

## **6. CONCLUSION**

- 6.1 A review of outcomes from a pilot project to promote the voluntary management of residential sales and lettings boards indicated that the most effective measure to reduce the overall number of boards was direct officer contact with agents in connection with individual boards without deemed consents.
- 6.2 The Field Officer Team functions extend across nine service areas and include support for the planning enforcement of unauthorised signs. Overall the role of Field Officers is to work directly and flexibly with communities and businesses to promote and enable behaviour change where required. This includes the option to 'hot-spot' areas when considered necessary through an integrated approach to service delivery.
- 6.3 This aspect of the Field Officer role, under their agreed and integrated citywide functions, therefore offers an approach which is supported by the findings of the Pilot Project, existing resources; and priorities set out within the Planning Enforcement Policy.
- 6.4 In terms of a Regulation 7 Direction there have been no material changes of circumstance to warrant a review of the decision not to proceed.

## **7. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 7.1 The delivery mechanism for the recommendations, the Field Officer Team, is funded from existing resources for the 2018/19 financial year. As the role of Field Officer is developed throughout 2018/19 and the scope is more defined, it is anticipated that its operational impact and potential to reduce costs and/or generate income will be monitored to inform the ongoing cost of the service from 2019/20.

*Finance Officer Consulted: Jessica Laing*

*Date: 19/10/18*

### Legal Implications:

- 7.2 As noted in the body of the report, the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 grant deemed consent for the

display of certain classes of advertisement, including advertisements relating to residential sales and lettings. Regulation 7. of those Regulations allows the Secretary of State to issue a Direction restricting deemed consent .

It is an offence to display an advertisement in contravention of the Regulations (s224 (3) of the Town and Country Planning Act 1990 and Regulation 30) and this would include contravening any condition attached to a consent.

*Lawyer Consulted: Hilary Woodward*

*Date: 22/10/18*

Equalities Implications:

- 7.3 Field Officers can ‘hot-spot’ areas to support improvements to poor quality local environments through an integrated approach to service delivery which includes managing signs. The preferred option will work towards delivering good quality environments throughout the city’s communities.

An Equalities Impact Assessment for the Field Officer role has been carried out by the Communities and Neighbourhoods Coordination Group.

Sustainability Implications:

- 7.4 Sustainable communities are supported by good quality environments which are facilitated by an integrated approach to service delivery, including managing signage.

Any Other Significant Implications:

- 7.5 None identified

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Voluntary Code of Good Practice
2. Findings of the 2017- 2018 Estate and Letting Agent Board Pilot Project
3. Regulation 7 Direction granted in 2010

### **Documents in Members’ Rooms**

None

### **Background Documents**

1. Brighton & Hove City Plan Part One 2016
2. Brighton & Hove Local Plan 2005

3. Brighton & Hove City Council ' Planning Enforcement Policy' 2018
4. Brighton & Hove City Council Neighbourhoods, Inclusion, Communities & Equalities Committee - 'Proposed Field Officer Role Business Case' January 2018
5. Brighton & Hove City Council Economic Development & Culture Committee 'Residential Letting Boards' November 2016
6. Brighton & Hove City Council Meeting - Notice of Motion 'Estate Agent's Board Regulation 7 Area Extension' July 2016
7. National Planning Practice Guidance 2014
8. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007
9. Brighton & Hove Housing Strategy 2015

