



City of Westminster

# Cabinet Member Report

<b>Decision Maker:</b>	Cabinet Member for Planning and Economic Development
<b>Date:</b>	9 January 2025
<b>Classification:</b>	General Release
<b>Title:</b>	Application to the Secretary of State for a Regulation 7 Direction to remove deemed consent for display of Estate Agents' Boards
<b>Wards Affected:</b>	All
<b>Policy Context:</b>	A Regulation 7 Direction will remove deemed consent for display of Estate Agents' Boards thereby protecting the visual amenity and character of the city. The current Direction is due to expire in May 2025.
<b>Key Decision:</b>	No
<b>Financial Summary:</b>	The costs of advertising the Regulation 7 Direction will be met within existing budgets.
<b>Report of:</b>	Director of Policy and Strategy

## **1. Executive Summary**

- 1.1 Approval is required to consult on proposals for, and submit an application to, the Secretary of State for a new Regulation 7 Direction to remove indefinitely 'deemed consent' for the display of estate agents' boards. The application will seek to secure city-wide coverage, and if this is not acceptable, the renewal and expansion of our existing Direction to include coverage of all conservation areas.
- 1.2 An existing Regulation 7 Direction means that in the areas covered by the Direction, 'express consent' is currently required from the council to install certain types of estate agents' boards. However, this Direction expires on 14 May 2025 – after which the display of such boards will benefit from 'deemed consent' and permission from the council will not be required so long as the estate agents' boards comply with the conditions in Schedule 3 of the Advertising Regulations.
- 1.3 The existing Direction was brought into force in 2009 in recognition that the display of estate agent's boards was having a detrimental impact on the character of certain conservation areas. It consolidated 3 earlier Directions that dated back to 2000, 2004, and 2005. Of those, the Direction introduced in 2000 had consolidated 3 previous Directions that date back as far as 1994, 1995, and 1996.
- 1.4 Despite a move towards online advertising, the display of estate agents' boards is still common practice, and there therefore continues to be a need for a Regulation 7 Direction to protect the character of conservation areas. A city-wide Direction is now sought because estate agents' boards present visual harm to the character of areas irrespective of whether they are in a conservation area. Seeking a city-wide Direction, and thus avoiding a two-tier system, is in accordance with the council's objectives for a Fairer Westminster. An indefinite Direction is sought in the interests of efficient use of resources – i.e. to remove any future requirements to dedicate resources (i.e. staff time and publishing costs) to apply for the future renewal of any Direction on a periodic basis.

## **2. Recommendation**

That the Cabinet Member for Planning and Economic Development:

- 2.1 Approves public consultation on, and subsequent submission of, an application to the Secretary of State for a Regulation 7 Direction to remove deemed consent for the display of estate agents' boards in the whole of the city indefinitely, and if this is not acceptable, the renewal of the existing Direction and expansion to cover all conservation areas, pursuant to regulation 7(5)(c).

### **3. Reason for Decision**

- 3.1 The Council's existing Regulation 7 Direction is an effective tool in managing the proliferation of estate agents' boards in identified conservation areas, to help preserve their character. However, the existing Direction expires on 14<sup>th</sup> May 2025. In the absence of any new Direction, the display of such boards will then benefit from 'deemed consent' – meaning they can be installed without the consent of the council, and enforcement action cannot be taken against such installation so long as the estate agents' boards comply with the conditions in Schedule 3 of the Advertising Regulations.
- 3.2 The unmanaged, and uncoordinated installation of estate agents' boards can create substantial harm to visual amenity and local character. Inappropriate placements, placements by multiple agencies in a concentrated space, placement on multiple levels of a building, and installations for very long periods of time can all contribute to a deterioration in the character and amenity of the public realm. This can then all lead to reduced investment in such areas – negatively impacting on employment and development opportunities. Given details of properties available to buy or let are now predominantly advertised online and information can be easily accessed on mobile phones, the use of such estate agents' boards now provides little benefit in terms advertising individual properties availability to target occupiers. Nevertheless it is still commonly used as a means of estate agents advertising where they are active. Where unregulated, this can also be exacerbated by some estate agents' practices of also installing boards to advertise upcoming community events alongside their own business.
- 3.3 The precedence of a long-standing Directions has provided the council with the leverage to exercise its duty to conserve and enhance conservation areas. Moving away from this approach would make it more difficult to resist other advertisements and therefore the council's commitment to high standards of design - which frequently includes measures to declutter the environment.
- 3.4 The current Direction covers several but not all conservation areas, and some areas immediately adjacent them. As a minimum, continued coverage of these areas, plus expansion to apply to all conservation areas in the city is necessary so their character can continue to be conserved and enhanced. City-wide coverage is also now sought to enable a more equitable approach to the management and protection of the character of the physical environment in line with the objectives of a Fairer Westminster.

### **4. Background and Policy Context**

- 4.1 Almost all forms of advertising are subject to planning control and require either 'express consent' or benefit from 'deemed' consent before they may be displayed. 'Express consent' is granted by the council in response to a specific

application, whereas 'deemed consent' means that subject to certain criteria, permission is automatically granted and no application to the council is required. The criteria for 'deemed consent' includes that only one board per property for sale or let is displayed, it is within specified dimensions, and a requirement to remove that board within 14 days of completion of the sale/grant of a tenancy.

- 4.2 A Regulation 7 Direction removes 'deemed consent' to display such boards within the area where the Direction applies. As such, if an estate agent wishes to display a board within the area covered by the Direction, an application for 'express consent' from the council is required. It does not impose an absolute ban on the installation of such boards, but does give the council power to determine if they should be permitted. It also means that where estate agents boards are displayed without 'express consent' they would be easily identifiable as illegal and the council would be in a position to remove and/or pursue prosecution of the person/company responsible for the display, if it considered the advertisement was harmful to visual amenity, local character, or public safety.
- 4.3 There is currently one Direction in operation in Westminster controlling the display of estate agents' boards in several conservation areas and areas immediately adjacent them. A map of the area covered by this Direction is provided in Appendix A. The Direction has been in place since May 2010 and is due to expire in May 2025 (15-year period). It consolidated and extended 3 previous Directions that were introduced from 2000 onwards (one of which had already consolidated 3 previous Directions from the mid-1990s). The existing Direction was justified on the basis that it was needed to ensure the continued protection of Westminster's built environment from the visual clutter of estate agents' boards. In determining that application, the Secretary of State concluded that:
- it was clear that the existing Directions were an effective tool in removing visual harm that was previously evident in these conservation areas before the controls provided by the Directions were brought into effect;
  - there was widespread support for the continuation of the controls; and
  - there was no evidence of a material change in circumstances that would allow the amenity of these areas to be properly safeguarded in the future by relying on the standard controls provided by the regulations.
- 4.4 The case for maintaining control of the installation of estate agents' boards remains as relevant today as it was when previous Directions were introduced. Moving away from the existing approach of seeking to regulate their installation would remove the deterrent that currently exists to the installation of such boards. It would also make it more difficult to resist other advertisements and therefore the council's commitment to high standards of design which includes efforts to declutter the environment.

- 4.5 While there has been a steady decline in the number of applications for ‘express consent’ over the last few decades as the advertisement of properties for sale or rent increasingly moves online (see figure 1 below), the unauthorised installation of boards remains an ongoing issue.

Figure 1:

Year	Number of applications
2013	511
2019	211
2022	82
2023	18

- 4.6 Council records indicate that there have been 44 enforcement cases within the areas covered by the existing Direction since 2019. Data from the Public Protection and Licensing team also indicates 21 violations since April 2021 that are officer identified and resolved informally when Estate Agents are asked to take the boards down. Data is not available on the areas not covered by the existing Direction – since these do not require consent from the council and enforcement action cannot be taken against them.
- 4.7 Evidence therefore indicates that online advertisement of properties available to rent or buy are still supplemented by estate agents’ boards. In the absence of any Direction upon the expiry of the existing one, there is a clear risk that this practice then proliferates, as the role the existing Direction provides in deterring such activity is lost. Where large numbers of boards are displayed in concentration, at various heights, and not being removed in a timely manner, or not removed at all, this continues to cause visual harm. Meanwhile, the installation of such boards provide little benefit to would be occupiers given the availability online of details of where properties are available to rent or buy. There is therefore a clear need to continue to have a Regulation 7 Direction in place to ensure the installation of boards can be properly regulated and act as a deterrent to their widespread use. Doing so also provides the council with a basis for seeking the removal of unauthorised boards – thus positively contributing to efforts to declutter the environment.
- 4.8 The renewal and extension of the Regulation 7 Direction will help ensure the council continues to meet its statutory duties to conserve and enhance the city’s heritage. Whilst advertisement consent is distinct from planning permission, it will also help ensure that the unregulated installation of estate agents boards does not compromise key objectives of adopted city plan policies, including:
- Policy 39 on heritage, which states: *‘K. Development will preserve or enhance the character and appearance of Westminster’s conservation areas. Features that contribute positively to the significance of conservation areas and their settings will be conserved and*

*opportunities taken to enhance conservation areas and their settings, wherever possible’;*

- Policy 43 on public realm, which states: ‘A. *Development will contribute to a well- designed, clutter-free public realm...*’ and ‘G. *Signs and advertisements will make a positive contribution to amenity or public safety by being sensitively designed in terms of their size, location and degree of illumination, their impact on the building on which they are displayed, local context, street-scene and wider townscape*’.

4.9 Seeking an indefinite rather than time-limited Direction is considered advantageous in terms of removing the need to subsequently re-apply to renew any Direction at a later date as has happened previously, and saving on the resources required to do so.

4.10 It is proposed to seek the extension of the existing Direction to cover the entire city, whilst also making clear that if this is deemed unacceptable by the Secretary of State, the council would still wish to renew its existing Direction and expand it to cover all conservation areas pursuant to regulation 7(5)(c). Appendix B illustrates the extent of coverage that would be provided by the existing Direction plus all conservation areas. If the proposal for a city-wide Direction was modified by the Secretary of State under regulation 7(5)(c), then the Secretary of State would have to write to the council and every person who has made a representation, giving them a reasonable opportunity to respond. Requesting that the Secretary of State consider renewing the existing Direction in the alternative under regulation 7(5)(c) will ensure that areas that have historically been regulated through this tool can continue to be, and all conservation areas are given an equal level of protection. The rationale for seeking to extend the Direction to the entire city is;

- It would ensure any new Direction does not reinforce a two-tier system of protecting visual amenity and the quality of the public realm in some areas, whilst neglecting others, contrary to the aims of a Fairer Westminster. The proliferation of unregulated boards can cause visual harm not just to conservation areas, but also the character of other parts of the city;
- Most dwellings in Westminster are flatted accommodation (data from the council’s Strategic Housing Market Assessment indicates 85,075 out of a total 103,715 households lived in flats in 2021 i.e. 82%). As the main harm to visual amenity and character arises from multiple boards being displayed and not taken down at flatted accommodation (as opposed to single boards within the front garden of a house), this makes the entire city vulnerable to the display of such boards in the absence of any Direction that deters such behaviour.

## **5. Financial Implications**

- 5.1 The cost of publicising the Regulation 7 Direction will be covered from the existing Policy and Projects budget within Corporate Services. The public consultation will be carried out electronically and therefore reduce printing costs. Key financial costs comprise of the need to publicise in both the *London Gazette* and one local newspaper when an application is made to the Secretary of State, and when it has been determined by them. Doing so is required to satisfy legislative requirements, and it is estimated that this would be at a total cost of approximately £2,500.

## **6. Legal Implications**

- 6.1 Regulation 6 of the Town & Country Planning (Control of Advertisements) (England) Regulations 2007 ('the Regulations') provides that (amongst others) the display of 'For Sale', 'To Let', and similar advertisements does not require 'express consent' from a local authority but can be displayed (under certain conditions) with 'deemed consent'.
- 6.2 Regulation 7 of the Regulations gives power to the Secretary of State to make special Directions to withdraw 'deemed consent' rights in respect to specified types of advertisements in specified areas.
- 6.3 The effect of a Regulation 7 Direction affecting estate agents' boards is that the display of such advertisements in the areas specified in the Direction would require Express Advertisement Consent from the council. It therefore gives the council power to better control the impact of such boards on local character in defined areas.

## **7. Climate Impact**

- 7.1 Estate agents' boards need to be manufactured, transported and then installed or replaced when damaged. The uncontrolled installation of multiple boards can therefore result in unnecessary carbon emissions. The introduction of a Regulation 7 Direction to better manage the installation of such boards in the city, can therefore have a positive impact in reducing carbon emissions. The reduction in display of these boards will also have a positive impact on the physical environment in terms of reducing the harm they cause to local character and the quality of the public realm.

## **8. Consultation**

- 8.1 Prior to submitting any application to the Secretary of State, the council will carry out consultation on its proposals to ascertain the extent of public support for them. During this time, the proposed extent of the Direction and the justification for it will be published on the council's website and all consultees on the council's planning policy database (which includes key stakeholders such as landowners, developers, neighbourhood forums and amenity societies and Historic England) will be alerted of the consultation via email and asked to express their views on the proposal. The estate agent industry will also be

targeted. Consultation responses will subsequently be shared with the Secretary of State alongside any application that is then publicised in accordance with the necessary legislation.

## 9. Equalities Implications

- 9.1 A formal Equalities Impact Assessment for the proposed Regulation 7 Direction has been considered. Renewing and expanding the Direction to cover the entire city may limit some groups without direct internet access to obtain information about the rental market. However, this impact is negligible because other forms of advertising properties exist such as newspapers and estate agent premises. There is also access to Westminster's network of libraries with internet facilities. Furthermore, estate agents typically advertise higher value properties, a market less relevant to poorer groups.
- 9.2 Balanced against the benefits of covering the whole city and protecting the character and quality of the public realm across the whole city which would be beneficial to everyone, the risk is negligible. The statutory criteria in section 149 of the Equality Act 2010 have been considered and therefore a formal Equalities Impact Assessment is not needed.

**If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:**  
Sean Walsh, Principal Policy Officer  
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### APPROVED BY

Title	Date approved
Executive Director of Regeneration, Economy and Planning	15 November 2024
Finance Manager	21 November 2024
External legal counsel	21 November 2024
Portfolio Advisor	9 December 2024

### APPENDICES

**Appendix A** – map of areas covered by the existing Regulation 7 Direction

**Appendix B** – map of all conservation areas plus areas covered by the existing Regulation 7 Direction

### BACKGROUND PAPERS


- None



For completion by the **Cabinet Member for Planning and Economic Development**

**Declaration of Interest**

I have no interest to declare in respect of this report

Signed:  Date: 9 January 2025  
NAME: Cllr Geoff Barraclough

State nature of interest if any:

*(N.B: If you have an interest, you should seek advice as to whether it is appropriate to make a decision in relation to this matter)*

For the reasons set out above, I agree the recommendation(s) in the report entitled Application to the Secretary of State for a Regulation 7 Direction to remove deemed consent for display of Estate Agents' Boards and reject any alternative options which are referred to but not recommended.

Signed: 

Cabinet Member for Planning & Economic Development

9 January 2025

Date:

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

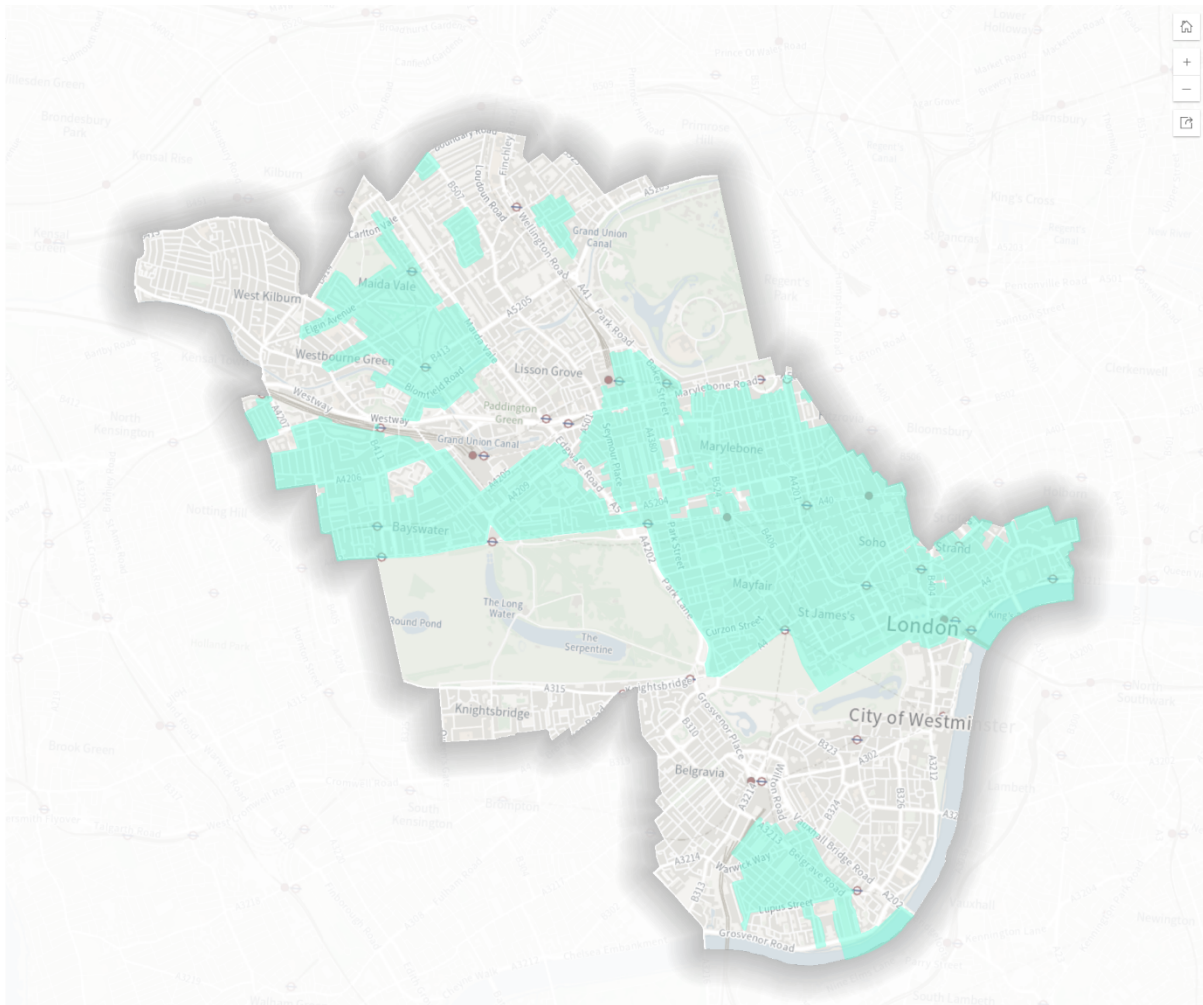
Additional comment:

If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Monitoring Officer and Section 151 Officer (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making

the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.

Appendix A – map of areas covered by the existing Regulation 7 Direction



Appendix B – map of all conservation areas plus areas covered by the existing Regulation 7 Direction

