

REPORT FROM: PLANNING, BUILDING CONTROL AND LICENSING SERVICES MANAGER

TO: COLNE AND DISTRICT COMMITTEE

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UNAUTHORISED ADVERTISEMENTS

PURPOSE OF REPORT

To report on the condition of the building

RECOMMENDATIONS

That Committee endorse the approach to dealing with adverts as set out in paragraph 13.

REASON FOR RECOMMENDATION

In order to ensure that advertisements that affect the visual amenity and highway safety of Colne are removed to remedy the injury

ISSUE

- 1 A report was brought to Committee in October outlining concerns over the plethora of unlawful adverts that are appearing in particular at transport interchanges. Committee wished to have a further report as there were concerns over how enforcement could be managed without this having an adverse impact on community groups.

Law and Policy on Advertisements

- 2 The Town & Country Planning Act 1990 sets the overall statutory framework controlling applications. Section 220 sets out the regulations that will be put in place controlling the display of adverts. It is an offence to display an advertisement in contravention of the Regulations (see below).
- 3 The Regulations relating to advertisements are the Town & Country Planning Advertisement Regulations 2007 (as amended). These contain some requirements that all advertisements must comply with and also allow certain advertisements to be displayed under a deemed consent regime.

- 4 Committee were concerned about how we can administer advertisements. Our control of them has to conform to what the Regulations require any Local Planning Authority to have regard to. Regulation 3 states that the powers we have to control advertisements can only be exercised in the interests of public safety and amenity. Other factors such as for example the impact not having an advert has on a business are not material issues that the Regulations allow to be taken on board in decisions on whether an advert is or is not acceptable. This is important in that it frames what issues we can legitimately take on board in deciding what approach we take on advertisements that are displayed unlawfully.
- 5 No advertisement can be displayed lawfully unless the consent of the land owner is given. Many of the adverts that are the subject of this report lie within the highway. The highway authority do not normally give their consent to private adverts being displayed.
- 6 The regulations however allow a number of advertisements (with the consent of the landowner) to be displayed. This allows many events to be advertised for short periods but with limitations on the size of advert allowed. The following are examples of advertisings allowed under the deemed consent regime:
- An advert by a local authority for relating to one of its functions (max 1.55m²)
 - An advert by a local planning authority (no limit)
 - An advert on the premises relating to an education, recreational or cultural institution (max 1.2m²)
 - An advert announcing a local event for religious, educational, cultural, recreational or social activity. Excludes anything for a commercial purpose. Max size 0.6m². Can be in place 28 days before and 14 days after the event.
- 7 Advertisements did not have immunity from enforcement until the amendment of the Regulations. Now an advertisement on a site that has been used continually for 10 years is immune from enforcement action as it is given deemed consent.
- 8 Non-compliance with the Regulations can result in a prosecution in the magistrates court with a fine of up to £2,500. Non-compliance thereafter can be a fine of up to £250 per day. Any financial benefit accruing from the display of an advert can also be recovered under the Proceeds of Crime Act 2002.

Enforcement Protocol Options

- 9 Advice on the enforcement of unlawful adverts is given in the National Planning Practice Guidance. This deals with the two areas under the Regulations that enforcement action can be based on. It is unhelpful on the issue that concerned Committee which is not to act in a way that affects community groups and the events that they often advertise.
- 10 We are given discretion on whether or not to take action on an advertisement but the decision in law on whether or not to pursue it can only be based on highway safety and amenity grounds.
- 11 The practical implications for this are that were there to be for example 4 or 5 adverts in a location that were affecting the amenity of the area, one of which was one advertising a community event,, that we could not justify taking action against the other 4 but not against the community advert as the law does not allow community needs to be take on board in reaching the decision to enforce.

- 12** One option would be to have certain sites that are granted consent for community groups to display adverts relating to their events. That would mean advertisement consent being sought and granted. The consent of the landowner is a prerequisite to the advert being allowed.
- 13** Practically we could write to any party who unlawfully displays an advert and give them a time period to remove them. That would need to be tempered with any advert that is causing a highway danger being required to be removed immediately. That would afford a short period of time for all adverts to be displayed and hence a community event to be held whilst forcing commercial adverts to be removed by the party displaying them. They in turn would be dealt with equally in terms of the timescale but would then be prosecuted were that advert to re-appear.

IMPLICATIONS

Policy:	None
Financial:	None
Legal:	None
Risk Management:	None
Health and Safety:	None
Sustainability:	None
Community Safety:	None
Equality and Diversity:	None