

CAMBRIDGE CITY COUNCIL

REPORT OF: Head of Planning Services

TO: Main Planning Committee DATE: 05/11/14

WARD: All

PLANNING ENFORCEMENT CONTROL SECTION 225/225A REPORT

Kings Parade, Cambridge The illegal display of advertisements (Enforcement reference: EN/0290/14)

SUMMARY	Requests have been made to permanently remove illegally displayed flag signs from the public highway (Kings Parade), but the signs remain displayed on a regular basis.
RECOMMENDATION	That authority be granted to serve notices as required under Section 225 and 225A to remove the illegally displayed signs and structure used for the unauthorised display of the signs.

INTRODUCTION

- 1.1 This report concerns the ongoing display of signs along Kings Parade, Cambridge which constitute advertisements under section 336(1), Town and Country Planning 1990 (as amended).
- 1.2 Appendix A contains a site plan with the approximate location of the signs which amount to advertisements. There are three signs in total, one of which has been attached to a stationary bicycle. The stationary bicycle is used principally for the display of a sign and officers consider that it cannot safely be ridden with the sign attached to it.

- 1.3 The area of land in which the signs are displayed is adjacent to Kings College (one of the most prestigious listed buildings in England,) and falls within the Central Conservation Area.
- 1.4 The signs/advertisements do not benefit from deemed advertisement consent under the provisions of the Advertisement Regulations 2007 and no applications for advertisement consent for the signs have been submitted or approved. The Council has written to the owners and requested the removal of the signs but they continue to be displayed on a regular basis. The ongoing display of the signs amount to the unauthorised display of advertisements. The display of an advertisement without the necessary consent is unlawful and constitutes a criminal offence.

2 PLANNING HISTORY

- 2.1 There is no relevant planning history for the signs.

3 BACKGROUND / TIMELINE OF ENFORCEMENT INVESTIGATION

SITE HISTORY AND CONTEXT

- 3.1 The area of Kings Parade is described in the Historic Core appraisal (June 2006) as having “the highest numbers of historic buildings, the greatest archaeological potential or are the most important areas of landscape”

The Appraisal also advises:

“5.2.10 REDUCING STREET CLUTTER

Official street trading pitches are controlled by the City Council and provide interest for shoppers and tourists. Similarly where cafes officially provide outdoor seating this adds vitality and is generally encouraged. However, unofficial trading on the street, including displays from shops spilling over onto the pavements (usually from short lets) and A-boards and other signs can cause extreme nuisance on narrow busy streets and can be a danger to the visually impaired.....”

- 3.2 Photographs of the signs are attached as Appendix B.

ENFORCEMENT INVESTIGATION

- 3.4 Officers have received complaints regarding the display of unauthorised signs along Kings Parade, which advertise walking tours, punting tours, tickets for sale for these activities, and the meeting points for these activities.
- 3.5 Formal letters have been issued to each sign holder requesting the permanent removal of the signs, and advising that there is no consent to display the signs.
- 3.6 Continued monitoring has shown that the signs remain displayed on a regular basis, contrary to the request of the Council as Local Planning Authority.
- 3.7 Officers from the City Development Management team have advised that if an application for advertisement consent were to be submitted for the signs consent it is unlikely to be granted.

Officers consider that the size and position of the signs in a prime position adjacent to the Listed Building, and their highly visible location on Kings Parade has a seriously detrimental impact on public amenity and is contrary to Local Plan Policy and guidance provided by the NPPF. The advertisements in question by reason of their prominent and significant position create visual clutter detracting from the character and appearance of the Conservation Area and adjacent Listed Buildings, and thereby create an undesirable precedent for the proliferation of similar signage in the historic City centre. As such the advertisements are considered to be contrary to NPPF paragraph 67 (which states that poorly placed advertisements can have a negative impact on the appearance of the built and natural environment) Cambridge Local Plan policies 3/4 (which requires development to respond to the context of the area), and 4/11 (which seeks to preserve and enhance the character and appearance of Conservation Areas.).

- 3.8 The signs continue to be displayed illegally.

OPTIONS AVAILABLE TO THE COUNCIL

- 3.9 Particulars of Offence: The display of advertisements representing a failure to comply with Section 224 of the Town and Country Planning

Act 1990 (as amended) and the provisions of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

- 3.10 Prosecution of the offence under Section 224 is an option that the Council could pursue but would not necessarily secure permanent removal of the signs.
- 3.11 Section 225 of the Town and Country Planning Act 1990 allows a Local Planning Authority to remove or obliterate any unauthorised placard or poster displayed unlawfully in its area except one displayed in a building to which the public has no right of access. The terms “placard” and “poster” are not defined however officers consider the signs to fall within the scope of the terms.

The Council must give advance written notice to anyone who can be identified as the person responsible for the display that the placard or poster is displayed unlawfully and that the Council can remove or obliterate the placard or poster after the period specified in the notice and recover the costs incurred.

- 3.12 Under Section 225A the Council may remove and then dispose of any display structure in their area which is used for the display of advertisements (which is not in a building to which there is no public right of access). The Council may not remove a display structure unless it has first served a removal notice on a person who appears to be responsible for the erection or maintenance of the display structure, or fixed a removal notice to the display structure or in the vicinity of it and served a copy of the notice on the occupier of the land. The removal notice must specify that the Council considers the display structure to be used for the display of advertisements in contravention of the relevant regulations, the Council intends after the time specified in the notice to remove the display structure and if the structure is not removed the Council can remove it and recover expenses.
- 3.13 Officers have considered a range of options to enforce against the signs. The services of a notice(s) under Section 225 and/or Section 225A is considered to be most effective to ensure that the signs are not moved marginally and re-displayed and would allow the Council to remove the signs if required and control compliance. The notice can specify a particular area within the City that the notice would apply to. The cost for this service to remove and dispose of the signs if required could then be recovered as part of the notice from the owners.

3.14 It is considered that the area to be detailed on the notice(s) should reflect the Central Conservation Area in order to protect the historic core. A plan showing the area concerned is attached as Appendix C.

4 ASSESSMENT AGAINST PLANNING POLICY AND OTHER MATERIAL CONSIDERATIONS

4.1 The National Planning Policy Framework states:

‘Para 207 Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.’

4.2 National Planning Policy Guidance states:

Para 17b-003: ‘There is a clear public interest in enforcing planning law and planning regulation in a proportionate way. In deciding whether enforcement action is taken, local planning authorities should, where relevant, have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control.’

4.3 Officers investigating the offence and setting out their recommendations have been mindful of, and complied with the Planning Investigation Service Policy and the City Council’s Enforcement Concordat.

4.4 Consideration should be given to the Human Rights Act 2000 and to the Equalities Act 2010. In terms of human rights, officers have noted Article 1 Protocol 1 (protection of property), Article 6 (a right to a fair hearing within a reasonable time), Article 8 (right to respect for private family life) and Article 14 (prohibition of discrimination) as being relevant considerations. The Council must also have regard to its public sector equality duty (PSED) under S.149 of the Equalities Act. The duty is to have due regard to the need (in discharging its functions) to:

Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.

Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing, minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).

Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Officers do not consider that the recommendation in this report would have a disproportionate impact on any protected characteristic.

- 4.5 Consideration has been given to Human Rights including Article 1 Protocol 1 (protection of property), Article 6 (a right to a fair hearing within a reasonable time), Article 8 (right to respect for private family life) and Article 14 (prohibition of discrimination). It is considered that taking necessary and appropriate action would be lawful, fair, non-discriminatory, and necessary in the general public interest to achieve the objective of upholding local planning policies.

5 RECOMMENDATIONS/OPTIONS

- 5.1 Enforcement is a discretionary power and Members of Committee need to consider an appropriate way forward.

The key range of enforcement powers available to the Council following a failure to remove an illegally displayed sign are as follows:

- Prosecution
- Simple Caution (in place of prosecution)
- Injunction
- Notice(s) under Section 225 and 225A

Officers have set out below the main options that the Committee needs to consider. Officers consider that Option 1 is the most

appropriate way to secure permanent removal of the illegally displayed advertisements.

5.2 Option 1

To serve notice(s) as required under Sections 225 and 225A of the TCPA 1990 (as amended) for the removal of the signs and structures used to support them displayed along Kings Parade requiring the signs to be permanently removed from display within the Central Conservation Area.

5.3 Option 2

To give delegated authority to the Head of Planning and the Head of Legal Services jointly, to take action on behalf of the Council in the form of prosecution proceedings for the display of advertisements without consent, which is an offence contrary to section 224 of the Town and Country Planning Act 1990 (as amended).

5.4 Option 3

Take no further action and close the planning enforcement investigation.

BACKGROUND PAPERS: The following are the background papers that were used in the preparation of this report:

APPENDICES

Appendix A- a site plan with the approximate location of the signs in question.

Appendix B- photographs of the signs in question

Appendix C- A plan showing the historic core area that will be detailed on the notice.

EN/0290/14- Kings Parade flag signs

To inspect these documents contact Alison Twyford on extension (45)7326

The author and contact officer for queries on the report is Alison Twyford on extension 7326.

Report file: N:\Development Control\Planning\Enforcement\ Committee Reports\Kings Parade illegal signs- Section 225 report

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