

## **REPORT TO STRATEGIC SCRUTINY COMMITTEE**

Date of Meeting: 21 September 2023

Report of: Director of City Development

Title: Ethical and Low Carbon Advertising: Planning policy considerations

### **Is this a Key Decision?**

Scrutiny is a non-decision making committee

### **Is this an Executive or Council Function?**

N/A

### **1. What is the report about?**

1.1 A Motion was presented at Council by Councillor Sparling in April 2023 regarding ethical and low carbon advertising. A report was presented to Strategic Scrutiny Committee in June 2023 relating to corporate advertising arrangements and the draft Ethical Advertising Framework. This report follows the previous discussion and considers planning considerations in relation to advertising. It discusses the scope of a planning policy on advertisements for inclusion in the emerging Exeter Plan for consultation in the autumn of 2023.

### **2. Recommendations:**

2.1 Members are asked to note the content of the report and discuss the scope of a potential advertisement policy for the emerging Exeter Plan.

### **3. Reasons for the recommendation:**

3.1 The discussion will help to provide the planning context to the emerging Ethical Advertising Framework for the city as well as giving sight of the scope of the advertisement policy for the Exeter Plan.

### **4. What are the resource implications including non-financial resources?**

4.1 This report focuses on the planning policy position regarding advertisements. The Council has already resolved to prepare a new Local Plan (the Exeter Plan) and has made available the associated budgets for this work. There are therefore no direct resource implications of the content of this report.

### **5. What are the legal aspects?**

5.1 The display of advertisements is subject to a separate consent process within the planning system. This is principally set out in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. Advertisements are controlled with reference to their effect on amenity and public safety only. There are 3 categories of advertisement consent: (i) Those permitted without requiring either deemed or express

consent from the local planning authority; (ii) Those which have deemed consent; and (iii) Those which require the express consent of the local planning authority. Consideration therefore of the further detailed report on planning policy aspects will be necessary to understand the scope of the proposed ethical and low carbon advertising report. Any amendment to local planning policy is likely to have to feature in the new Local Plan and will be subject to consultation and review by a Planning Inspector.

5.2 There are presently contracts in place for both ECC controlled advertising and joint Devon County Council and Exeter City Council advertising.

5.3 Members will also note that there is statutory guidance on advertising, including the Code of Non-Broadcast Advertising and Direct and Promotional Advertising.

## **6. Report details**

### Introduction

6.1 As the owner of many capital assets around the city and as operator of various public buildings, the Council offers advertising opportunities. The emerging Ethical Advertising Framework helps to set the parameters for appropriate advertising on Council premises.

6.2 Separate to this position, as Local Planning Authority, the Council has a responsibility to determine applications for advertisement consent. This is managed by a specific process within the planning system and covers advertisements across the city – this is not limited to Council premises.

6.3 This report briefly explains the planning process with regard to advertisement consent.

### Legislation regarding advertisement consent

6.4 Advertisement consent is specially managed through a set of national planning regulations; Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

6.5 These regulations specify that advertisements can only be controlled by considering two factors:

- The effect on amenity; and
- Public safety.

6.6 This narrow set of considerations significantly limits the ability of Councils to control advertisements through the planning process and specifically does not enable restrictions to be placed on what is being advertised. This is a matter for the Advertising Standards Authority or corporate policy.

### Current local plan policy

6.7 Although national planning regulations significantly limit the matters which can be considered in determining applications for advertisement consent, the Council currently has a policy covering advertisements in the adopted Local Plan First Review. The policy is included below:

‘DG8: Advertisements, signs and notice boards will not be permitted if they are likely to cause harm to the character and appearance of the buildings on which, and the area in which, they are located’.

6.8 Within the limitations of the national planning regulations, this policy amplifies the considerations of amenity by identifying the need to address an advertisement’s potential impact on local character and the appearance of buildings.

### Emerging Exeter Plan policy

6.9 As part of the ongoing preparation of the Exeter Plan the Council has reviewed the scope of policies which are considered to be needed in the new document. On this basis, it is proposed to include a new policy covering advertisements.

6.10 A new policy will be included in the next formal consultation stage of the Exeter Plan and, subject to Executive approval, this will be consulted on in the autumn.

6.11 The final draft wording is still being completed, however the scope of the new policy is likely to be similar to that in the current policy, amplifying the two themes of public safety and amenity which are the only two considerations for advertisement consent.

6.12 In terms of amenity it is proposed that the policy makes reference to:

- Location;
- Scale;
- Materials;
- Lighting; and
- Character historic significant of buildings.

6.13 In terms of public safety it is proposed that the policy makes reference to ensuring the functionality of:

- The highway network;
- The wider transport network; and
- Security systems.

6.14 It is also proposed that provision is made for renewable energy generation on digital advertising installations.

6.15 As already stated, it is not possible through the planning system to determine advertising consent applications on the basis of what is being advertised. For Council

premises, this however can be controlled through corporation policy including the Ethical Advertising Framework.

## **7. How does the decision contribute to the Council's Corporate Plan?**

7.1 The content of the report and planning policy discussion covering advertisement consent relates to three priorities set out in the Council's Corporate Plan:

- Housing and building great neighbourhoods and communities;
- Net zero carbon city; and
- Thriving culture and heritage.

## **8. What risks are there and how can they be reduced?**

8.1 There is minimal risk associated with the recommendations in this report; the scope of the emerging advertising policy in the draft Exeter Plan aims to manage the impact of advertisements on public safety and amenity providing more clarity to existing national consents regulations.

## **9. Equality Act 2010 (The Act)**

9.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- Eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- Advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- Foster good relations between people by tackling prejudice and promoting understanding.

9.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

9.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

9.4 No potential impact has been identified on people with protected characteristics as determined by the Act because the report is for noting and discussion only.

## **10. Carbon Footprint (Environmental) Implications**

10.1 The report and recommendations are for noting and discussion only. Carbon and environmental impact considerations would be assessed via a full Sustainability Appraisal of the emerging Exeter Plan.

## **11. Are there any other options?**

11.1 The other options would be to:

- Retain the existing advertisement policy wording from the adopted Local Plan First Review; and
- Omit a policy on advertisements and instead rely on national regulations.

11.2 It is suggested that the updated policy scope included in this report provides an appropriate level of detail to supplement national regulations.

### **Local Government (Access to Information) Act 1972 (as amended)**

Background papers used in compiling this report:-

Strategic Scrutiny report and minutes from June 2023: Ethical and low carbon advertising

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