

## PLANNING ENFORCEMENT PROSECUTION UPDATE

**E/18/00009**

### REASON FOR REPORT

1. The Quarterly Planning Enforcement Update relates to action taken in respect of the serving of a formal Notice, including prosecution proceedings in relation to those Notices. However, there are instances where individuals or companies are prosecuted without the serving of a formal Notice.
2. The purpose of this report is therefore to update Members in the Hearing that took place at St. Albans Magistrates Court on 11 July 2018 in the matter of Dacorum Borough Council v, Nowitslaw Ltd. and Litigant in Persons Ltd.

### BACKGROUND TO CASE

3. On 6th January 2018 a complaint was received from a member of the public to investigate a banner being displayed on the railings at junction of Redbourn Road and St Agnells Lane, also known as Cupid Green Roundabout.
4. During the course of January – March 2018 Planning Enforcement Officers received further complaints of several other banners advertising the legal services of Law & Us and Litigant in Persons. Planning Enforcement Officers also noted additional such banners being displayed without any advertisement consent. The banners were typically displayed in prominent locations in Hemel Hempstead and attached to either highway furniture or roadside barriers and railings. In total 17 separate locations were noted.
5. Despite of the Council's numerous efforts in trying to resolve these matters in various ways, the banners continued to be displayed by Law & Us Limited and Litigant in Persons. Several banners were noted to have been erected subsequent to the Council's first contact with Law & Us Limited/Litigant in Persons, and in particular after the company was informed to remove all banners displayed within Dacorum without consent on 23 January 2018. Ultimately, the Council's efforts to secure the removal of the banners were unsuccessful and the Council was forced to take action to remove six of the banners itself.
6. The banners were considered to have a detrimental impact on the visual amenity of the area, whilst their locations at roundabouts, junctions and pedestrian crossings resulted in an unwelcome distraction to road users. The Council received a number of complaints about these banners from local residents, emphasising the harm the banners caused.
7. Due to the persistent nature of the offences, and due to the harms caused by the display of these unlawful banners, Planning Enforcement prepared a very detailed

evidential Witness Statement and passed the matter to Legal to commence prosecution proceedings.

## THE OFFENCES

8. In the case of the display of unauthorised signs and banners it is a criminal offence under S.224(3) of the Town and Country Planning Act 1990, for which the responsible person(s) may be prosecuted in the Magistrates Court. Proceedings for such an offence must be brought to the Court within 6 months of the Council having evidence that an offence has been committed.
9. In such cases the fine upon summary conviction under this legislation is currently a maximum of £2500 per sign.
10. In accordance with s.224(5) of the Act a person shall be deemed to display an advertisement if:
  - he is the owner or occupier of the land on which the advertisement is displayed; or
  - the advertisement gives publicity to his goods, trade, business or other concerns.
11. Planning Enforcement Officers listed 17 separate offences and sought to prosecute the two companies concerned for each and every offence.

## COURT DECISION

12. The magistrates found the 17 matters described above proved and the defendants were sentenced as follows.
13. Nowitslaw Ltd. received a fine of £42,500, had to pay the prosecution's costs of £1,202.50, and a victim surcharge of £130.
14. Litigant in Persons Ltd. received a fine of £42,500, had to pay the prosecution's costs of £1,202.50, and a victim surcharge of £130.
15. As such both companies received the maximum fine payable, i.e. £2,500 for each banner that had been unlawfully displayed.