

# A High Street adverts and advertising boards guide

This information has been extracted from **Outdoor advertisements and signs: a guide for advertisers**.

Department for Communities and Local Government (June 2007)

To read the full guide, visit [www.maldon.gov.uk/planning](http://www.maldon.gov.uk/planning).

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# How the Advertisement Control System Works

## Regulations for England

The advertisement control system in England consists of rules made by the Secretary of State, which is part of the planning control system. The present rule is the Town and Country Planning (Control of Advertisements) Regulations 2007 which has been in force since 6 April 2007.

If you need a copy of these rules, you can buy one from your nearest **Stationary Office** bookshop; you should ask for **Statutory Instrument 2007 No 783**. There are also official Circular and Planning Policy Guidance Notes, produced by Communities and Local Government, which you may find helpful. You should ask for **Communities and Local Government Circular No 03/2007** and **DOE Planning Policy Guidance (PPG) Note No 19**.

## Who controls outdoor advertisements?

Throughout England, local planning authorities are responsible for the day-to-day operation of the advertisement control system, and for deciding whether a particular advertisement should be permitted or not. For this purpose, the local planning authority for your area will normally be the district council, the County Council, or the London borough council if you live in the Greater London area. But there are two exceptions to this arrangement:

- if your advertisement is to be displayed in any National park, the planning authority is the National park authority, or if it is to be displayed within the Broads area then the planning authority is the Broads authority;
- if your advertisement is to be displayed in an urban development area, the planning authority normally is the Urban Development Corporation for that area

If the planning authority refuse consent for your advertisement, or require you to remove an existing advertisement, you have a right to appeal against their decision. In England, this appeal is to the Secretary of State. The operation of the appeal system is described below.

## What is an 'advertisement'?

The advertisement control system covers a very wide range of advertisements and signs including:

- posters and notices
- placards and boards
- fascia signs and projecting signs
- pole signs and canopy signs
- models and devices
- advance signs and directional signs

- estate agents' boards
- captive balloon advertising (not balloons in flight)
- flag advertisements
- price markers and price displays
- traffic signs
- town and village name-signs

## Three different groups of outdoor advertisement

To enable you to understand more easily whether you need the planning authority's permission for the outdoor advertisement you want to display, this booklet divides all advertisements into three main groups, which are explained in more detail later.

These groups are:

- advertisements which the rules exclude from the planning authority's direct control;
- advertisements for which the rules give a 'deemed consent' so that the planning authority's consent is not needed, provided your advertisement
- is within the rules (see page 10); and
- advertisements for which the planning authority's 'express consent' is always needed.

## Three areas where special rules apply

Because there are some places in our cities and towns and many parts of the countryside in England which are especially vulnerable to the visual effects of outdoor advertisements, all planning authorities have three special powers which enable them to achieve a stricter control over advertisements than they can achieve in the ordinary way. These powers are:

1. to define an Area of Special Control of Advertisements;
2. to remove from a particular site or a defined area the benefit of the deemed consent normally provided by the rules; and
3. to require a particular advertisement. or the use of a site for displaying advertisements, to be discontinued.

The way in which the planning authority propose to use the first and second of these powers must be formally approved by the Secretary of State before it is effective; and there is a right of appeal to the Secretary Of State against the planning authority's use Of the third power (a 'discontinuance notice').

## The 'standard conditions'

All outdoor advertisements must comply with five 'standard conditions'. They must:

- be kept clean and tidy
- be kept in a safe condition

- have the permission of the owner of the site on which they are displayed (this includes the Highway Authority if the sign is to be placed on highway land)
- not obscure, or hinder the interpretation of, official road, rail, waterway, or aircraft signs, or otherwise make hazardous the use of these types of transport
- be removed carefully where so required by the planning authority

Class 4(B) permits internally or 'halo' illuminated advertisements on other business premises (see Class 5 below) if they relate wholly to the business or name or qualifications of the person carrying on the business or the goods sold or services provided. A projecting sign must not exceed 0.75 of a square metre in area, project more than 1 metre from the wall, exceed two-thirds of the width of any pavement below it, or be more than one-sixth of the frontage measured to the top of the advertisement. An example is shown in illustration 22.

Maximum levels of luminance are detailed in the Regulations.



## Class 5: Advertisements on business premises

Class 5 gives consent for a wide variety of notices, signs, and advertisements to draw attention to any commercial services, goods for sale, or any other services available at the premises where the advertisement is being displayed. 'Business premises' means any building in which a professional, commercial, or industrial undertaking is being carried on, or any commercial services are being provided for the public. This term would include:

- office buildings
- banks and building societies
- shops and shopping arcades
- supermarkets and hypermarkets
- theatres, cinemas, and dancehalls
- bingo halls and amusement arcades
- vehicle showrooms and garages
- privately owned factories and works

- restaurants and cafes.

The advertisement must be displayed on the exterior of the building (see illustration 23).



Class 5 is not intended to permit all forms of outdoor advertising on any business premises; **it only permits advertisements for the goods or services available at the premises.** This means advertisements which refer to:

- the business or other activity at the premises;
- the goods for sale or the services available; and/or
- the name and qualifications of the firm or person providing the service in the premises.

An advertisement permitted by Class 5 **must not**:

- have any letters, figures, symbols, or similar features in the design over 0.75 of a metre in height. or 0.3 of a metre in height if they are in any Area of Special Control of Advertisements;
- have its highest part at more than 4.6 metres above ground-level, or metres in any Area of Special Control of Advertisements;
- have its highest part above the level of the bottom of the first-floor window in the wall where the advertisement is;
- be illuminated, unless the illumination is intended to indicate that medical or similar services or supplies are available at the premises; and
- if the premises are in any Area of Special Control of Advertisements, exceed in area 10 per cent of the external face of the building, measured up to a height of metres above ground-level.

Additionally, if the business premises is a shop, an advertisement may be displayed only on an external wall which has a shop window in it.

## Class 6: advertisements on forecourts of business premises

When business premises have a forecourt (or more than one), Class 6 gives further consent to display the type of advertisement permitted by Class 5, namely notices, signs, and advertisements to draw attention to any commercial services, goods for sale, or other services available at the premises. The term 'forecourt' includes any enclosing fence, wall, screen, or other Structure, so long as the means of enclosure is not part of the business premises itself.

A forecourt would include:

- the enclosed area in front of a newsagents or tobacconist's shop;
- the area at a petrol filling station where pumps are situated;
- a terrace in front of a restaurant or cafe.

A forecourt does not include the area of pavement in front of business premises which forms part of the highway.

Because Class 6 permits advertisements on the forecourt of business premises, any such notices, signs or advertisements must be at ground-level, And the total permitted area for all forecourt advertisements must not exceed 4.6 square metres on each forecourt frontage to the premises. So, a building with two forecourt frontages may have advertisements not exceeding 9 square metres in all if those on each frontage do not exceed 4.6 square metres. Forecourt advertisements must not be illuminated in any circumstances. Two examples are shown in illustrations 24 and 25."



## Class 12: advertisements displayed inside buildings

Class 12 permits advertisements to be displayed inside a building if;

- they are illuminated (for example, a sign in the window of a chemist's shop);
- the building is mainly used to display advertisements; or
- the advertisement is within one metre of any window or other external opening through which it can be seen from outside the building.

## Class 13: advertisements on sites used for the preceding ten years for displaying advertisements

Class 13 allows advertisements to be displayed on a site that has been used continually for the preceding ten years for the display of advertisements, Class 13 does not permit any substantial increase in the extent, or alteration in the manner of the use of the site or the display of the advertisement.

## Class 14: advertisements displayed after the expiry of express consent

Class 14 permits the continued display of advertisements for which the permitted period of express consent (usually five years) has expired and for which the planning authority has not forbidden any further display of that advertisement or refused an application for its renewed display.

## Class 15: Captive balloons advertisements

One balloon advertisement may be displayed if it is:

- not more than 60 metres above the ground;
- not displayed for more than 10 days in any calendar year; and
- not in any Area of Special Control of Advertisements, National Park, Area of Outstanding National Beauty, Conservation Area, or the Broads.

Although captive balloon advertisements displayed at a height of more than 60 metres above ground level may be displayed, they are subject to the civil aviation controls over all forms of aerial advertising, and you must obtain the Civil Aviation Authority's consent before you fly any balloon at a height of more than 60 metres.

## Class 16: advertisements on telephone kiosks

Class 16 allows the display of an advertisement on the glazed surface of a telephone kiosk, other than a kiosk of type K2 (1927) or K6 (1935) designed by Giles Gilbert Scott.

- No advertisement may be displayed in an Area of Outstanding Natural Beauty, a Conservation Area, a National Park, the Broads, or an Area of Special Control of Advertisements.
- Illumination is not permitted.
- Except for the name of the electronic communications code operator, its trading name or symbol, no advertisement may be displayed on more than one face of the kiosk.
- Where three or more kiosks are sited in a row or group, the display of an advertisement on any face of one kiosk shall preclude the display of an advertisement on the face of any adjacent kiosk.

## Advertisements Which Need Specific Permission, and How to Obtain it

### Express consent

If an advertisement you want to display is not excluded from control and does not benefit from any of the provisions for deemed consent, you need the planning authority's express consent before you can display it. Some frequently displayed types of advertisement for which you need the planning authority's consent are:

- virtually all posters
- some illuminated signs
- fascia signs and projecting signs on shopfronts or business premises where the top edge of the sign is more than 4.6 metres above ground level
- most advertisements on gable-ends.

### How to obtain advertisement consent

To obtain consent to put up an advertisement or sign you will need to apply to the planning authority for the area where it will be displayed. Most planning authorities provide a standard application form, which you can obtain from the local Council's Planning Department. Electronic standard application forms are available from the Planning Portal via the following link: [www.planningportal.gov.uk](http://www.planningportal.gov.uk). In addition to the completed application form, illustrative plans and drawings are required; and you will have to pay the appropriate charge for the advertisement application. The tariff of charges is related to the type of advertisement involved in the application, and the amounts are reviewed annually. Information about current charges is given on the application form or can be obtained from the Planning Department's area office.

### How your application for consent is decided

Your application for consent to display an advertisement will usually be decided by the Planning Committee of the district council or London borough council, for the site where the advertisement is to be displayed. Alternatively, the Planning Committee

may have delegated this responsibility to an officer of the Council's Planning Department. In deciding whether to approve your application, the planning authority may consider only two issues; these are described in the rules as the interests of amenity and public safety. Many planning authorities have formulated and adopted advertisement control policy statements indicating what detailed considerations they regard as relevant to their decisions on advertisement applications. The statements often indicate the circumstances in which advertisements are likely to be permitted or refused. But while a relevant policy statement will be a material factor in deciding your advertisement application, it should not be the only decisive factor because the planning authority must always have regard to the circumstances of each individual advertisement application.

## What do 'amenity' and 'public safety' mean?

The terms 'amenity' and 'public safety' are not defined in detail in the advertisement control rules, although advice on these terms is given in Circular 0312007 and PPG 19. Each planning authority (and the Secretary of State on appeal) must interpret what is meant by these expressions as they apply in particular cases. In practice, 'amenity' is usually understood to mean the effect upon visual and aural amenity in the immediate neighbourhood of displaying the advertisement, or using an advertisement site, where passers-by, or people living there, will be aware of the advertisement. So, in assessing amenity, the planning authority will always consider the local characteristics of the neighbourhood. For example, if your advertisement will be displayed in a locality where there are important scenic, historic, architectural, or cultural features, the planning authority will consider whether it is in scale and in keeping with these features. This might mean that the planning authority would refuse consent for a large poster-boarding which would visually dominate a group of 'listed' buildings. But where there are large buildings and main highways, for example in an industrial or commercial area of a major city, the planning authority may grant consent for large advertisements which would not adversely affect visual amenity in the neighbourhood of the site. Two examples are shown in illustrations 30 and 31.





It also means aural amenity, so any noise the advertisement makes will be considered before express consent is given.

If you are in doubt whether an advertisement needing specific consent will be acceptable on grounds of amenity, staff in the local authority's Planning Department will usually advise you informally before you apply formally to them. Among amenity considerations the authority must not include the content or subject-matter of an advertisement, nor whether an advertisement would offend public decency, or moral values. These factors are controlled by a voluntary 'code of conduct' supervised by the Advertising Standards Authority.

'Public safety' means the considerations which are relevant to the safe use and operation of any form of traffic or transport on land (including the safety of pedestrians), over water or in the air. So, for this purpose, the planning authority must assess the likely effects of your advertisement in relation to such matters as the behaviour of drivers, possible confusion with any traffic sign or signal, or possible interference with a navigational light or aerial beacon. But the planning authority will assume that all advertisements are intended to attract people's attention, so that the advertisement you want to display would not automatically be regarded as a distraction to passers-by in vehicles or on foot. What matters is whether your advertisement, or the spot where you propose to site it, will be so distracting or so confusing that it creates a hazard for, or endangers, people who are taking reasonable care for their own and others' safety. When they are considering 'public safety' factors for your advertisement, the planning authority will normally consult other relevant bodies, for example the highway authority if your advertisement is alongside a major road.

## What happens after the authority's decision?

If the planning authority have granted consent for the display of your advertisement, the consent usually lasts for five years. But the authority may grant consent for a longer or shorter period than five years; so, it is worth checking, in the notification of their decision, for how long the consent will last. However, unless the planning authority have imposed a condition that your advertisement must be removed after their consent expires, you may continue to display it without making any further application, although the authority may still take 'discontinuance action' against it.

## What happens if the planning authority refuse consent?

If the planning authority refuse consent for your advertisement, or they impose a condition on their consent with which you are dissatisfied (for example, the hours for illuminating a shop fascia sign are very strictly limited), you have a right to appeal against the authority's decision to the Secretary of State (as explained in the following paragraph). You also have a right to appeal to the Secretary of State if the planning authority fail to give their decision within eight weeks of the date of your advertisement application, or within any period longer than eight weeks which you and the planning authority may have agreed, But you have no right to appeal if the planning authority tell you that they have treated your application as withdrawn because it is similar, in all relevant respects, to one on the same site which has been refused by the Secretary of State on appeal within the preceding two years.

## How and when you can appeal to the Secretary of State

If you wish to appeal against the planning authority's decision for an advertisement site in England, your appeal must be made to the Secretary Of State for Communities and Local Government. The best way to appeal is to complete the official advertisement appeal form which is available from Communities and Local Government at the following address:

**Department for Communities and Local Government Customer Support Unit**

**Room 315, Temple Quay House**

**2 The Square**

**Temple Quay**

**Bristol BS1 6PN**

**Tel: 0117 372 6372**

Your appeal must normally be made within eight weeks of the date when you receive notification of the planning authority's decision; but the Secretary of State has discretion to allow a later appeal if they consider that the circumstances justify it. The appeal procedure is fully explained on the appeal form, and Communities and Local Government will usually be able to provide any additional advice you need. The Secretary of State's decision on an appeal is usually the final determination, on 'amenity', and 'public safety', for your advertisement application, although there is a further right to appeal to the High Court on a point of law or if there has been a breach of natural justice.

## Illegal advertisements

Anyone who displays an advertisement, or uses an advertisement site, or knowingly permits someone else to do so, without the consent required for it is acting illegally. It is then immediately open to the planning authority to bring a prosecution in the

Magistrates' Court for an offence under section 224 of the Town and Country Planning Act 1990. But, unless an offence is especially flagrant or repeated, the planning authority may not initially consider it necessary to prosecute for an advertisement offence. Instead, they may invite the advertiser to apply for the consent they believe he needs, and, if consent is refused, there will be a right of appeal to the Secretary of State.

The continued display of any advertisement after consent has been refused, and any appeal dismissed, may well result in prosecution. The maximum fine on conviction of an offence is presently £2,500, with an additional daily fine of one-tenth of the maximum penalty on conviction of a continuing offence.

It is illegal to display any advertisement (even if it has deemed consent) without first obtaining the permission of the owner of the site, or any other person who is entitled to grant permission.

Any form of fly-posting (that is, displaying an advertisement without consent) is an offence which is immediately open to prosecution, or to the removal or obliteration of any fly-posting material if the district council or London borough council decide to take remedial action against fly-posting in their area. In the case of a placard or poster, if the material identifies the advertiser displaying it, the Council must give two days' written notice of the intention to remove or obliterate it. This advance notice gives the advertiser the opportunity to contest the Council's proposed actions, but if the advertiser is not identified a placard or poster may be immediately removed or obliterated.