

29 March 2007

TOWN AND COUNTRY PLANNING (CONTROL OF ADVERTISEMENTS) (ENGLAND) REGULATIONS 2007

1. The Secretary of State for Communities and Local Government has made the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 which come into force on 6 April 2007. These Regulations revoke and replace with amendments, the Town and Country Planning (Control of Advertisements) Regulations 1992 (SI 1992/666), the Town and Country Planning (Control of Advertisements) (Amendment) Regulations 1994 (SI 1994/2351), and the Town and Country Planning (Control of Advertisements) (Amendment) Regulations 1999 (SI 1999/1810). The Regulations only apply to England.

Annex

2. The Annex to this Circular gives a general outline of the present system of advertisement control and includes relevant advice about advertisement applications to local planning authorities, appeals to the Secretary of State, and how to deal with unauthorised advertisements. Further policy guidance is given in Planning Policy Guidance (PPG) Note 19, "Outdoor Advertisement Control" which is available from The Stationery Office as a priced publication. The Annex of PPG19 has been replaced by Appendix E to this Circular.

Main changes made by the Regulations

3. Proposed de-regulatory measures, and changes to clarify the advertisement control regime, were canvassed in the then Department of the Environment, Transport and the Region's consultation paper "Outdoor Advertisement Control" (July 1999). Following Ministerial consideration of consultees' responses, the new Regulations incorporate many of the measures and changes proposed in 1999. They also include further changes, some of them consequential and some as a result of new powers introduced in the Clean Neighbourhoods and Environment Act 2005. The main changes are summarised in the following paragraphs.

4. Changes to advertisements excepted from control (Schedule 1 to the Regulations) and to advertisements displayed with deemed consent (Schedule 3 to the Regulations) are explained in Part 2 of the Annex. The format of the Regulations corresponds to the 1992 Regulations except that the order of the first two Schedules has been reversed.

Powers to be exercised in the interests of amenity and public safety – Regulation 3

5. Local planning authorities are required to exercise their powers under the Regulations with regard to amenity and public safety, taking into account relevant development plan policies in so far as they relate to amenity and public safety, and any other relevant factors.
6. The definition of “amenity” in regulation 2(1) includes both visual and aural amenity. Therefore as well as visual amenity, the noise generated by advertisements should be considered. “Public safety” is not confined to road safety. Crime prevention and detection are relevant; the obstruction of highway surveillance cameras, speed cameras and security cameras by advertisements is now included.

Discontinuance of deemed consent – Regulation 8

7. Local planning authorities must serve the discontinuance notice on the owner of the site on which the advertisement is displayed, on the occupier of the site (if he or she is not the owner) and on the person who undertakes or maintains the advertisement display (see the definition of “advertiser” in regulation 2(1)). They may also serve a copy of the discontinuance notice on any other person displaying the advertisement, such as the person or company whose interests are being served by the advertisement, if they feel that this is necessary.
8. A discontinuance notice may require the discontinuance of the display of a particular advertisement or the use of a particular site for the display of advertisements for which there is deemed consent. The exceptions are: advertisements that are within both Class 12 in Schedule 3 (advertisements inside buildings) and Class E or Class F in Schedule 1 (advertisements relating to a pending Parliamentary or local government election or referendum, or required to be displayed by Parliament).
9. Regulation 8(3)(d) requires a statement of the reasons why discontinuance action has been taken. The local planning authority should explain their reasons for taking discontinuance action and why they consider that it is necessary to take this action. They should also say why they consider that a substantial injury to the amenity of the locality or a danger to members of the public has been caused.

Applications for express consent – Regulation 9

10. Regulation 9(2) makes it clear that an application for express consent must be made either electronically on a form published by the Secretary of State and available on the Planning Portal or in writing on a paper copy of the form published by the Secretary of State and available from local planning authorities. Applications should be accompanied by a plan that identifies the location of the site by reference to at least two named roads; identifies the proposed position of the advertisement; is drawn to scale; and shows the direction of North.

Power to deal with applications – Regulation 14

11. Local planning authorities have new powers (in regulation 14(1)(c), to which regulation 14(2) and (3) and Part 1 of Schedule 4 are relevant) to decline to determine an application for express consent for an advertisement in an Area of Special Control if, by virtue of regulation 21(1), they have no power to grant the consent applied for.

Documents in electronic form

12. Regulation 22 explains the circumstances in which documents may be sent electronically (or made available on a web-site) instead of being delivered by post or being available in hard copy. The exceptions to electronic delivery, which are set out in regulation 22(1) and (2), are: the notice of direction restricting deemed consent (regulation 7(8)); the service, withdrawal and variation of a discontinuance notice (regulation 8(3) and (6)); the notice of modification or revocation of express consent (regulation 18(3)); the notice of making, modification or revocation of an Area of Special Control Order (Schedule 5, as applied by regulation 20(2) and (3) and; a claim for compensation (regulation 19).

Town and Country Planning (Control of Advertisements) (England) Direction 2007

13. The Town and Country Planning (Control of Advertisements) (England) Direction 2007, sets out required information for local planning authorities to supply to the Secretary of State when handling appeals. A copy of the Direction is at Appendix G to the Annex.

Guidance booklet about outdoor advertisement control

14. The statutory provisions for control over outdoor advertisements are comparatively detailed. A booklet “Outdoor Advertisements and Signs-A Guide for Advertisers” is available. It is intended to help local planning authorities, people proposing to display advertisements and the general public understand how the control system works. Copies of the booklet are available from local planning authorities’ offices and at enquiry points where people may seek information about outdoor advertisements. It is also available electronically on the Planning Portal. www.planningportal.gov.uk/wps/portal and from the Department for Communities and Local Government’s website www.communities.gov.uk

Effects on local government manpower and expenditure

15. This Circular up-dates the existing advice to local planning authorities about outdoor advertisement control, local planning authorities’ functions in this area and the procedure for appeals to the Secretary of State. It should not involve any increase in local government manpower or expenditure.

Cancellation of Circulars

16. DOE Circulars 5/92 and 15/94 are now cancelled in so far as they apply to England.

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The National Park Officer, National Park Authorities in England
The Chief Planning Officer, The Broads Authority

For information:

The Secretary, London Planning Advisory Committee

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ANNEX

The Town and Country Planning (Control of Advertisements) (England) Regulations 2007

PART 1: THE MAIN STATUTORY PROVISIONS

The Secretary of State's power to make Regulations

1. The Secretary of State's powers to make regulations for the control of outdoor advertisements are in sections 220, 221, 223 and 224 of the Town and Country Planning Act 1990. The current regulations are the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, SI2007/783. All subsequent references to Regulations are to the 2007 Regulations, unless otherwise stated.

Definition of an "advertisement"

2. For the purpose of the 1990 Act and these Regulations, the term "advertisement" has a wider than normally understood or dictionary meaning. Section 336(1) of the 1990 Act, as amended by section 24 of the Planning and Compensation Act 1991, defines "advertisement" as:

"any word, letter, model, sign, placard, board, notice, awning, blind, device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and (without prejudice to the previous provisions of this definition) includes any hoarding or similar structure used, or designed or adapted for use, and anything else principally used, or designed or adapted principally for use, for the display of advertisements".

3. Certain modern forms of outdoor advertisement (such as rotating poster panels, or advertisements displayed on permanently fixed blinds or canopies at fascia level on business premises) are within the definition; and are thus subject to advertisement control by local planning authorities.
4. Regulation 2(1) excludes from the definition of "advertisement" anything "employed wholly as a memorial or as a railway signal" and any placard or object carried by, or attached to, an individual or an animal.

Criteria for control under the Regulations

5. Under regulation 3, advertisements are subject to control only in the interests of "amenity" and "public safety". The content, subject or design of an advertisement cannot be controlled under the Regulations unless it appears to the local planning authority to be required in the interests of "amenity" or "public safety". Express consent cannot be refused because the local planning authority considers the advertisement to be misleading (in so far as it makes misleading claims for products), unnecessary, or offensive to public morals. The Advertising Standards Authority is responsible for

dealing with such issues. Local planning authorities may legitimately take action on public safety grounds against signs containing misleading directional information. The colour, size of lettering or symbols, amount of text and type of materials used may also be controlled but only in the interest of amenity and public safety.

6. Because specific powers are available to local planning authorities to control all types of advertisements, within the statutory definition, the Secretary of State considers that local planning authorities should not normally seek to control the display of advertisements by other means, such as by issuing an enforcement notice.

Authorities responsible for advertisement control

7. For the purposes of the Regulations, the local planning authority is the appropriate district, or metropolitan district council, except in Greater London, in Urban Development Corporations, in a National Park, or in the Broads. In Greater London, the local planning authority is the appropriate London borough council or the Common Council of the City of London; in a National Park, it is the appropriate county planning authority namely the National Park Committee or Planning Board; and, in the Broads, it is the Broads Authority. The power in regulation 20 to make area of special control orders (see paragraphs 87 to 91 below) is exercisable in London by the appropriate London borough council or the Common Council and elsewhere by district planning authorities. In a National Park the power is conferred only on the county planning authority.

PART 2: THE SCOPE OF CONTROL

Advertisements excepted from deemed and express consent

8. The Regulations apply to the display of all advertisements on land. This includes advertisements on buildings and advertisements on water. The exceptions are those “Classes” specified in Schedule 1 to which Parts 2 and 3 of the Regulations do not apply and those advertisements which are excepted from control by regulation 1(2): anything employed wholly as a memorial; as a railway signal; or a placard or other object borne by an individual or an animal.
9. The nine Classes of advertisement excepted from deemed and express consent are:

Class A: an advertisement displayed on enclosed land and not readily visible from outside the enclosure, or from any part of it over which the public have a right of access. These include advertisements inside: a railway station and its forecourt, a bus station and its forecourt, a sports stadium. It also includes a shopping mall or arcade, but not an historic shopping arcade which is defined as a group of buildings of which more than 50% are listed buildings or within a conservation area, and where at least 75% of the ground floor of more than 50% of the buildings in the group is used predominantly for retail purposes. It does not include advertisements displayed in public parks, public gardens or open space used by the public, or land alongside railways.

Class B: an advertisement displayed on or in any vehicle normally employed as a moving vehicle. This includes boats (any vessel on any inland waterway or in coastal waters), trains or aeroplanes. This does not include vehicles used principally for the display of advertisements e.g. stationary vehicles or trailers in fields or lay-bys used for advertising purposes.

Class C: an advertisement incorporated in the fabric of a building e.g. incised stonework lettering. It does not include an advertisement fixed to, or painted on, a building. It does not allow hoardings or similar structures to be part of the building.

Class D: an advertisement which refers to, and is displayed on, an article (which includes a gas or liquid) for sale, or on its container or dispenser, provided the advertisement is not illuminated and does not exceed 0.1 square metres.

Class E: an advertisement relating specifically to a pending Parliamentary, European Assembly or local government election, or to a referendum (to be removed within 14 days after the close of the poll). Referendums have now been included in this Class of advertisements.

Class F: an advertisement required by Standing Orders of either House of Parliament or by any enactment or statutory condition.

Class G: a traffic sign, as defined in section 64(l) of the Road Traffic Regulation Act 1984.

Class H: the national flag of any country, the European Union flag, the Commonwealth flag, the flag of the United Nations and English county and saints' flags (where these are associated with a particular county) may be flown, provided nothing is added to the design of the flag or, if the flag is flown from a flagstaff, any advertising material is added to the flagstaff.

Class I: an advertisement displayed inside a building, and not within one metre of any external door, window, or other opening through which it is visible from outside. The advertisement may not be illuminated.

The requirement for consent

10. All advertisements, other than the excepted classes mentioned in paragraph 9 above, require consent before they can be lawfully displayed. Any person who displays an advertisement in contravention of the Regulations is guilty of an offence under section 224(3) of the 1990 Act and liable to a fine on conviction.
11. The Secretary of State considers that it would often be reasonable for local planning authorities to invite a person who appears to be contravening the Regulations to remove the advertisement, or to apply for consent, before they prosecute. The person may be unaware of the requirements of the Regulations; or may consider that he already has, or does not need, consent to display the advertisement. In cases of blatant, deliberate or repetitive displays of unauthorised advertisements, immediate prosecution

may be the more appropriate course to secure the early removal of the advertisement. A continuing offence may be the subject of a further prosecution, and on conviction will attract a daily fine.

12. Unless an advertisement is within one of the excepted classes or one of the “deemed consent” classes in Part 1 of Schedule 3 to the Regulations, an application must be made to the local planning authority for express consent. A consent applies to the land or building and is unaffected by a change of ownership. A change of occupancy of premises may sometimes result in the need for a minor change to an advertisement which has previously received the local planning authority’s express consent. The Secretary of State considers that it would be reasonable for local planning authorities to allow minor changes (e.g. where the name of the occupier changes, but the size and type of display otherwise remain substantially unaltered), without requiring another advertisement application.
13. Under section 222 of the 1990 Act, planning permission is deemed to be granted for any development of land involved in the display of advertisements in accordance with the Regulations. But consent under the Regulations still requires the applicant to comply with any other statutory obligation. For example, the advertiser will also have to obtain listed building consent, where appropriate. Section 222 would not grant consent for the erection of any structure unless its primary purpose is to display advertisements although it would include development which is ancillary to the actual advertisement display but is part of the same scheme, such as fencing and landscaping.

Standard conditions

14. All advertisements are subject to the five standard conditions specified in Schedule 2 to the Regulations.

Standard condition 1 requires no advertisement to be displayed without the permission of the owner of the site (this includes land or buildings where the advertisement is displayed), or any other person with an interest in the site entitled to give permission.

Standard condition 2 prohibits the siting or display of an advertisement that would endanger anyone using any highway, railway, waterway, dock, harbour or aerodrome (civil or military), or would obscure or hinder the ready interpretation of any traffic sign, railway signal, or aid to navigation by water or air. It also prohibits the siting or display of an advertisement that would hinder the operation of any device used for the purpose of security or surveillance (such as closed circuit television cameras) or for measuring the speed of any vehicle (speed cameras or other speed-measuring devices).

Standard condition 3 requires the advertisement and any land or building used for the purpose of its display to be maintained in a reasonably clean and tidy condition so that it does not impair the visual amenity of the site.

Standard condition 4 requires any structure or hoarding used for the display of advertisements to be maintained in a safe condition that does not endanger the public.

Standard condition 5 is about the removal of advertisements and requires the site to be left in a safe condition that does not endanger the public and in a reasonably clean and tidy condition so that it does not impair the site's visual amenity.

The five standard conditions do not remove the need for local planning authorities to consider carefully the amenity and public safety aspects of applications for express consent to display advertisements.

Advertisements displayed with deemed consent

15. The 16 Classes of advertisements for which deemed consent is granted, that is to say which may be displayed without the need for express consent from the local planning authority, are specified in Part 1 of Schedule 3 to the Regulations. With the exception of Class 12, the deemed consent for advertisements within each Class is subject to specific conditions and limitations as well as to the standard conditions. Part 2 of Schedule 3 defines some of the terms used in Part 1.
16. Even if a local planning authority determines an application for express consent for an advertisement coming within any of the deemed consent Classes, the deemed consent provisions do not cease to apply. Consequently, local planning authorities should notify anyone who unwittingly applies for consent for an advertisement which clearly falls within one of the deemed consent Classes, that express consent is not required for it. The local planning authority is also precluded, by regulation 14(6), when granting an express consent for the display of an advertisement within one of the deemed consent Classes, from imposing any condition which is more restrictive than the equivalent condition under the deemed consent provisions of that class.

Class 1 – Functional advertisements of government departments and their agencies, local authorities, statutory undertakers and public transport undertakers and Transport for London

17. **Class 1A** includes Government departments and agencies of Government departments and Transport for London so that their functional advertisements are treated in the same way as those of local authorities, giving information or directions about the services they provide. Statutory undertakers and public transport undertakers may display functional advertisements required for the operation of their services. Illumination is only allowed where it is necessary to enable the information or directions to be read. A new condition limits the size of advertisements within Class 1A to 1.55 square metres in area.
18. **Class 1B** allows local planning authorities to display their functional advertisements on land in their local authority area. The only condition applies to areas of special control where the functional advertisement may be displayed only if the local planning authority could have granted express consent for its display.

Class 2 – Miscellaneous advertisements relating to the premises on which they are displayed

19. **Class 2A** permits notices or signs to be displayed on buildings or land as means of identification, direction or warning. These include for example, the number or name of a house, a sign saying “please shut the gate”, and a warning notice saying “beware of the dog”. Illumination is not permitted. There are limits to the overall size of the advertisement, the height above ground level at which it may be displayed and the size of characters or symbols on it.
20. **Class 2B** permits notices or signs to be displayed on any premises in order to advertise the fact that a person, partnership or company is carrying out a profession, business or trade at those premises. Illumination is not permitted unless the advertisement states that medical or pharmaceutical services or supplies are available on the premises. These include doctors’ surgeries, dental practices, chiropodists, chiropractitioners, opticians, osteopaths, physiotherapists and veterinary services. Where illumination is allowed it is only at the level necessary to enable the information to be read and no moving parts or flashing lights are permitted.
21. The overall size limit is 0.3 of a square metre but if there is more than one entrance to the premises on different road frontages, one advertisement of up to 0.3 of a square metre may be displayed at each entrance on two different frontages. There are limits to the height above ground level at which the advertisement may be displayed and the size of characters or symbols on it.
22. **Class 2C** permits advertisements relating to institutions of religious, educational, cultural, recreational or medical or similar character; or any hotel, inn or public house, block of flats, club, boarding house, hostel or bed and breakfast establishment, at the premises where it is displayed. Illumination is not permitted unless the advertisement states that medical or pharmaceutical services or supplies are available on the premises. Where illumination is allowed it is only at the level necessary to enable the information to be read and no moving parts or flashing lights are permitted.
23. The other conditions and limitations are that the overall size limit is 1.2 square metres but if there is more than one entrance to the premises on different road frontages, one advertisement of up to 1.2 square metres may be displayed at each entrance on two different frontages. There are limits to the height above ground level at which the advertisement may be displayed and the size of characters or symbols on it.

Class 3 – Miscellaneous temporary advertisements

24. **Class 3** gives consent to a wide variety of notices and signs which are used to publicise a forthcoming event, or to advertise a short-term use of the advertisement site. There are six separate categories. If a Class 3 advertisement relates to a sale (other than Class 3A advertisements) or event (other than Class 3F advertisements), it must not be displayed more than 28 days before the sale or event begins and must be removed within 14 days after it ends. In areas of special control there are stricter limits to the height above ground level at which advertisements may be displayed and on the size of characters or symbols on the advertisement.

25. **Class 3A** permits the display of a single board or two joined boards to be displayed (usually by estate surveyors, chartered surveyors, auctioneers and valuers), advertising that residential, agricultural, industrial or commercial land or premises, on which they are displayed, are for sale or to let, or that the land on which the board is displayed is to be sold or let for development for residential, agricultural, industrial or commercial use. Illumination is not permitted. Where the advertisement consists of more than a single board or two joined boards only the first advertisement to be displayed will benefit from deemed consent.
26. Size limits apply. No advertisement board is allowed to extend outwards from the wall of a building by more than 1 metre. The height above ground level at which the advertisement may be displayed is limited as is the size of characters or symbols on the board.
27. The only permitted additions to the board(s) are statements saying that the sale or letting has been agreed, or that land or premises have been sold or let, subject to contract. Boards must be removed not later than 14 days after the sale has been completed or the tenancy has been granted.
28. **Class 3B** permits advertisements to be displayed announcing the sale of goods or livestock on land or premises which are not normally used for goods or livestock sales. Advertisements within this category include those advertising an auction of house contents at the house, and a sale of livestock on farm premises. Illumination is not permitted. Only one advertisement is allowed at any one time. Where more than one advertisement is displayed at the same time only the first will benefit from deemed consent. Size limits apply. The height above ground level at which the advertisement may be displayed is limited as is the size of characters or symbols on it. The advertisement must not be displayed more than 28 days before the sale is due to begin and must be removed not later than 14 days after it ends or was due to begin.
29. **Class 3C** permits firms or individuals who are carrying out building, engineering or construction work to advertise the fact at the site only as long as the work is being carried out. The land must not normally be used, whether at regular intervals or otherwise for building, engineering or construction work. One person, partnership, or company (whether incorporated or not) may display their own advertisement board provided it does not exceed two square metres; but if all those engaged on the contract rely on a single advertisement board, it can have a total area of two square metres, plus a further 0.4 square metre for each additional firm or person mentioned on the board. Additionally, if the development project is known by a particular name, the size of the advertisement board may be increased by a further 20% to enable the name to be displayed. When this type of advertisement board is more than ten metres away from a highway, it can have a total area of three square metres, plus a further 0.6 of a square metre for each additional firm or person mentioned on it.
30. Only one advertisement is permitted to be displayed at any one time on each road frontage to the site of each separate development project, except in cases where the board is already being displayed, so that it is impracticable or inconvenient to add another name to it. In which case any other individual, firm or contractor working at the site may display their own separate board for up to three months, provided that it is

no larger than 0.5 of a square metre on each road frontage to the site of the project. Where more than one advertisement is displayed, only the first to be displayed on any frontage will benefit from deemed consent.

31. Illumination is not permitted. The height above ground level at which the advertisement may be displayed is limited as is the size of characters or symbols on it.
32. **Class 3D** permits temporary advertisements advertising any local event or activity being held for charitable purposes. The event or activity may be religious, educational, cultural, political, social or recreational, but cannot be an event or activity promoted or carried on for any commercial purpose. Class 3D advertisements include advertisements for a church bazaar, a fete for parent-teacher association, a sponsored marathon in aid of charity, an amateur sports event, but not any sporting event organised for commercial purposes.
33. Illumination is not permitted. Size limits apply. The height above ground level at which the advertisement may be displayed is limited as is the size of characters or symbols on it. The advertisement must not be displayed more than 28 days before the event or activity begins and must be removed not later than 14 days after it ends.
34. **Class 3E** permits temporary advertisements advertising that a demonstration of agricultural methods or processes is taking place on the land where the advertisements are being displayed. The advertisements may not be displayed on any land for more than six months in any period of 12 months. Illumination is not permitted. Size limits apply. The maximum area of all the displayed advertisements must not exceed 1.2 square metres and no individual advertisement is to exceed 0.4 of a square metre. The height above ground level at which the advertisement may be displayed is limited as is the size of characters or symbols on it. The advertisement must not be displayed more than 28 days before the demonstration begins and must be removed not later than 14 days after it ends.
35. **Class 3F** permits temporary advertisements announcing the visit of a travelling circus, fair or similar travelling entertainment to any specified place in the district. Illumination is not permitted. Size limits apply. The height above ground level at which the advertisement may be displayed is limited. At least 14 days before the advertisement is displayed, the local planning authority must be notified in writing with details of when and where it is to be displayed. It must not be displayed more than 14 days before the first performance or opening of the entertainment on the advertised site and must be removed not later than 7 days after the last performance or closing of the entertainment.

Class 4 – Illuminated advertisements on business premises

36. **Class 4** allows advertisements on business premises to be displayed with either internally illuminated letters or characters on an unilluminated background or lit by “halo illumination”. “Halo illumination” means that the light source is not directly visible from any angle. The illuminated area is the background of the advertisement rather than the letters or symbols themselves. The permitted luminance levels have been changed so that the maximum permitted levels are for a lit, rather than an unlit, zone in urban areas which are not in an area of special control. Intermittent light sources, flashing lights, moving parts or features, exposed cold cathode tubing, or

animation are not allowed. The use of retroreflective material which reflects light from vehicles' headlights is not allowed. Illumination is only allowed where it is necessary to enable the information to be read. Class 4 advertisements are not allowed in conservation areas, areas of outstanding natural beauty, National Parks or the Broads. The condition restricting advertisements to a wall containing a shop window is removed from Class 4A.

37. **Class 4A** permits internally or “halo” illuminated advertisements on premises within a retail park but only on a frontage which faces or overlooks a communal car park within the boundaries of the retail park. The advertisement must refer wholly to the business or name or qualification of the person carrying on the business, or the goods sold or services provided on the premises. Only one advertisement parallel to the wall and one projecting at right angles from the wall are allowed.
38. Size limits apply. There are limits to the distance the sign can project from the wall of a building, the height above ground level at which an advertisement may be displayed and the size of characters or symbols on the advertisement.
39. **Class 4B** permits illuminated advertisements on business premises (other than those in Class 4A) provided they refer wholly to the business or name or qualification of the person carrying on the business, or the goods sold or services provided on the premises. Only one advertisement parallel to the wall and one projecting at right angles from the wall are allowed.
40. Size limits apply. There are limits to the distance the sign can project from the wall of a building, the height above ground level at which an advertisement may be displayed and the size of characters or symbols on the advertisement. Advertisements on shops may only be displayed on a wall containing a shop window.
41. As well as illumination by internal or “halo” means the advertisement may be illuminated by a built-up box containing the light source. In which case the distance between the face of the advertisement and any wall parallel to which it is displayed at the point where it is fixed is limited to no more than 0.25 metre. This is also the limit for the distance between the two faces of an advertisement projecting from a wall.

Class 5 – Other advertisements on business premises

42. **Class 5** allows specific advertisements which are not covered by Classes 4A or 4B to be displayed on business premises. It gives consent for a wide variety of notices, signs and other advertisements to draw attention to the business carried out on the premises, any commercial services, goods for sale, or any other services available at the business premises where the advertisement is being displayed. It also allows the name or qualifications of the person carrying on the business, or supplying the goods or services, on those premises, to be displayed.
43. “Business premises” means any building or part of a building in which a professional, commercial or industrial undertaking is being carried on, or any commercial services are being provided for the public. Examples of business premises include: office buildings; banks and building societies; shops, supermarkets and hypermarkets; theatres, cinemas and night clubs; bingo halls and amusement arcades; vehicle showrooms and garages; privately owned factories and works; restaurants and cafes. It does not include a

building designed for use as one or more separate dwellings unless that building has normally been used in the preceding ten years for any professional, commercial or industrial business or for providing services to the public or any association; or the building has been adapted by the construction of a shop front; or a material alteration of a similar kind to its external appearance. Forecourts or land forming part of the curtilage of a building are not classed as “business premises”, neither are fences, walls or similar screens or structures unless they form part of the fabric of the building.

44. Illumination is only allowed where it is necessary to enable the information to be read and is only allowed if the advertisement is for medical, pharmaceutical or veterinary services available on the premises, or medical or veterinary supplies which are available there.
45. If the business premises is a shop, no advertisement may be displayed except on a wall containing a shop window. There is no limit to the number of advertisements which may be displayed but there is a new maximum size limit of 1.55 square metres. The height above ground level at which the advertisement may be displayed is limited as is the size of characters or symbols on the advertisement. In an area of special control there are special size and height above ground level restrictions.

Class 6 – An advertisement on a forecourt of business premises

46. **Class 6** gives business premises with a forecourt (or more than one), further consent to display the type of advertisement permitted by Class 5. It gives consent for notices, signs and other advertisements to draw attention to the business carried out on the premises, any commercial services, goods for sale, or any other services available at the business premises. It also allows the name or qualifications of the person carrying on the business, or supplying the goods or services, on those premises, to be displayed.
47. A building, or part of a building, with a “forecourt” would be an area of land, whether it is enclosed or not, within the curtilage of the building or part of it, to which the public may have access with the permission of the owner. It includes any fence, wall, screen or other structure that defines the boundaries of that area. A forecourt would include such places as: the enclosed area in front of a shop; the area at a petrol filling station where pumps are situated; a terrace in front of a restaurant or café. Forecourt does not include the area of pavement in front of business premises which forms part of the highway.
48. A new condition limits the maximum area for all advertisements on forecourts to 4.6 square metres, with no single advertisement exceeding 1.55 square metres. Therefore a building which may have two or more frontages with a forecourt on each may display advertisements on each forecourt. No individual advertisement can be more than 1.55 square metres and the maximum area of all the advertisements on all the forecourts must not exceed 4.6 square metres. This allows a non-illuminated “four sheet” display with deemed consent but a “six sheet” display would require express consent. Illumination is not permitted. The height above ground level at which the advertisement may be displayed is limited as is the size of characters or symbols on the advertisement.

Class 7 – Flag advertisements

49. **Class 7** permits some flag advertisements. This deemed consent has no effect on national flags, the European Union flag, the Commonwealth flag, the flag of the United Nations and English county and saints' flags (where these are associated with a particular county), which are included in Class H (paragraph 9).
50. **Class 7A** permits an advertisement in the form of a flag to be flown on a single flagstaff fixed vertically on the roof of a building. There is no height limit. The flag may only have on it the name, emblem, device or trademark of the company or person occupying the building, or refer to a specific event of a limited duration taking place in the building, in which case the flag may only be flown for the duration of this event. Flags are not permitted to advertise goods or products, unless they have express consent. The size of characters or symbols on the flag is limited.
51. **Class 7B** permits the display of flag advertisements flown from a single vertical flagstaff at residential, or predominantly residential, building sites during construction works and for as long as at least one new house remains available for sale. These flags may not be flown in any conservation area, area of outstanding natural beauty, National Park, the Broads or an area of special control.
52. The number of flag advertisements is linked to the number of houses. The maximum size of the flag and the height of the flagstaff is limited. The maximum period the flag may be flown is one year starting on the day when building operations on the site have been substantially completed. Paragraph 4 of Part 2 of Schedule 3 of the Regulations defines the site, "the land concerned" on which such advertisements may be displayed and makes specific provision for joint or phased development of a larger site. The terms "aggregate number", "flat", "house" and "planning permission" are also defined for the purpose of this deemed consent in Schedule 3, Part 2, paragraph 4 of the Regulations.

Class 8 – Advertisements on hoardings

53. **Class 8** permits the display of temporary advertisements on hoardings which are being used to screen building or construction sites while the work is being carried out on site. The hoardings may enclose the whole or part of the site which is being developed mainly for commercial, industrial or business purposes. The purpose of this consent is to bring about some environmental benefit on building sites, by enabling screening (and perhaps also temporary landscaping) of the site to take place, thus providing the advertisers with some financial incentive for this purpose. This deemed consent is not available for any residential development, or area of special control, and is not available for any development in any conservation area, area of outstanding natural beauty, National Park or the Broads.
54. At least 14 days before the display starts, the advertiser must send written notification to the local planning authority telling them the first day they intend to display the advertisement. They must also provide a copy of the detailed planning permission for the site. An advertisement may be displayed for three months before building work starts on the site and for no longer than three years. There is no limit to the number of advertisements. The maximum size permitted for a single advertisement is 38 square metres. No part of the advertisement may be more than 4.6 metres above ground level.

55. Illumination is not permitted unless it is by static means and is only allowed where it is necessary to enable the information to be read. Where illumination is allowed it should be at the top of the advertisement rather than from below, in order to reduce potential vandalism. Intermittent light sources, flashing lights, moving parts or features, exposed cold cathode tubing, or animation are not allowed. The use of retroreflective material which reflects light from vehicles' headlights is not permitted.

Class 9 – Advertisements on highway structures

56. **Class 9** enables poster panels, known as four-sheet or six-sheet, to be displayed on structures or objects placed on highway land with the local council's approval under section 115E of the Highways Act 1980. The structure, such as a bus shelter or information kiosk, must be purpose designed for displaying this size of poster panel and must be located on pavements or pedestrianised areas of the public highway.
57. Illumination is not permitted. Size limits apply. The height above ground level at which the advertisement may be displayed is limited as is the size of characters or symbols on the advertisement.

Class 10 – Advertisements for Neighbourhood Watch and similar schemes

58. **Class 10** enables an advertisement displayed on or near highway land but not in the window of a building, to give notice that Neighbourhood Watch and other Watch schemes, jointly established by a local Watch committee and the police authority, are in operation in the area. This includes Home Watch, Crime Watch, Farm Watch and Industrial Watch set up jointly with the police authority. Class 10 now includes signs indicating that Closed Circuit Television Cameras (CCTV) are operating in the area, provided the signs bear no resemblance to traffic signs. These CCTV signs are associated with CCTV used for general crime prevention purposes, not for traffic offences which are covered by road traffic legislation. The CCTV signs are often fitted to lampposts.
59. At least 14 days before any sign is put up, the local planning authority must be notified in writing where it is to be displayed and assured that it is properly authorised by the police, and where it is displayed on highway land, the consent of the highway authority has been given. If the police or highway authority withdraw their approval or the scheme ceases to operate, the signs must be removed within 14 days. Illumination is not permitted. Size limits apply. The height above ground level at which the advertisement may be displayed is limited as is the size of characters or symbols on the advertisement.

Class 11 – Directional advertisements

60. **Class 11** permits house building firms to put up temporary directional signs, on a single flat surface, telling potential house buyers and other visitors how to reach a site where new residential development is taking place. At least 14 days before any sign is put up, the local planning authority must be notified in writing where it is to be displayed and from what date. No sign may continue to be displayed after development of the house building site is completed, or for more than two years.

61. The sign must not look like a traffic sign. The sign must be on land adjacent to but not on highway land, so that the sign is reasonably visible to an approaching driver but not within 50 metres of a traffic sign which is intended to be seen by anyone approaching from the same direction. With the agreement of the local authority, developers may attach directional signs to local authority owned street furniture. Where there is no local authority agreement developers should use their own posts to attach their signs and seek agreement from the land owner. No sign may be more than two miles from the main entrance to the house building site. Illumination and retroreflective material are not permitted. Size limits apply. The height above ground level at which the advertisement may be displayed is limited as is the size of any character or symbol on the advertisement.

Class 12 – Advertisements inside buildings

62. **Class 12** permits advertisements which do not fall within Class I in Schedule 1 to be displayed inside a building. Class 12 includes: all advertisements which are illuminated, for example, a sign in the window of a chemist's shop; and all non-illuminated advertisements which are within one metre of any window or other external opening through which they can be seen from outside the building.

Class 13 – Advertisements displayed on the same site for the preceding ten years

63. **Class 13** in the 1992 Regulations allowed advertisements to be displayed with deemed consent provided they were displayed on a site which had been used continually for the display of advertisements since 1 April 1974. Over the passage of time it had become increasingly difficult to prove whether a site had been used in this way since April 1974. Therefore Class 13 has been amended so that it now allows advertisements to be displayed on a site which has been used continually for the preceding ten years for the display of advertisements without express consent. Any reference in Class 13 to the display of advertisements shall be construed as reference also to the use of the site.
64. These provisions allow for temporary cessation of the advertisement display (including, for instance, for the repair or redecoration of the premises, or structure, to which the advertisement is attached) without losing the benefit of the deemed consent granted by Class 13 for the continued use of the site for the display of advertisements. However, if the building or the structure on which the advertisement is displayed is removed or destroyed the erection of any building or structure to continue the display is not permitted.
65. No material increase in the extent to which the site has been used for the display of advertisements, or a material alteration in the manner in which it has been used must have occurred during the preceding ten years. To replace a non-illuminated advertisement with an illuminated one is not permitted. To replace a single static advertisement (whether it is illuminated or not) with an advertisement that comprises sequential displays or an advertisement with moving parts, or other moving features, or intermittent lighting designed to give the appearance of movement is not permitted.

Class 14 – Advertisements displayed after expiry of express consent

66. **Class 14** permits the continued display of advertisements with deemed consent after the expiry of their period of express consent (usually five years), provided the local planning authority has not forbidden by condition any further display of that advertisement, or refused an application for its renewed display. The site must have been continually used for the display of advertisements since the expiry of the express consent. However, these provisions allow for temporary cessation of the advertisement display (including, for instance, for the repair or redecoration of the premises, or structure, to which the advertisement is attached) without losing the benefit of the deemed consent granted by Class 14 for the continued display of the particular advertisement.
67. Any condition imposed on the original express consent is to continue to apply unless due to the passage of time it is incapable of being applied. The introduction of illumination, sequential displays, moving parts or other moving features, or intermittent lighting designed to give the appearance of movement, are not permitted if they were not specifically authorised by the terms of the express consent.

Class 15 – Advertisements on balloons

68. The display of an advertisement on or consisting of a balloon not more than 60 metres above ground level was the old Class A in Schedule 2 of the 1992 Regulations. Previously balloons were either round or blimp-shaped but balloon production techniques have become more sophisticated, raising amenity and safety considerations. Balloons can now be in the shape of the product advertised (e.g. a bottle) which can be unsightly. Balloons have therefore been moved to Schedule 3 and a new deemed consent Class 15.
69. **Class 15** permits captive balloon advertisements (an advertisement on a balloon or the balloon itself) to have deemed consent if they are not more than 60 metres above the level of the ground. The site may not be used for the balloon to be displayed for more than 10 days in any calendar year. Only one balloon may be displayed on the site at any time. The site must not be in any conservation area, area of outstanding natural beauty, National Park or the Broads, or area of special control.
70. The Civil Aviation (Aerial Advertising) (Captive Balloons) Regulations 1984 (SI 1984/474) permit certain advertisements displayed on captive balloons not exceeding a specified size and volume, provided the balloon is not being flown at a height exceeding 60 metres above ground-level. The reference in regulation 2(1) to a balloon meaning “a tethered balloon or similar object” is intended to comprise both conventionally shaped balloons used for advertising purposes and other balloons designed in the form of the product, for example a bottle, which is being advertised.
71. The definition of “site” in paragraph 5 of Part 2 of Schedule 3 of the Control of Advertisements Regulations 2007 makes it clear that where the land to which the balloon is attached is being used for a particular activity for a temporary period, the site may be regarded as the whole of the land to be used for that activity. In all other cases the site is the land to which the balloon is attached and all the land normally occupied with it. Thus advertisers will still not be able to move a balloon advertisement to different parts of one large site to gain exemption for more than 10 days in any calendar

year. Article 75 of the Air Navigation Order 1989 (SI 1989/2004) confirms that if a balloon remains attached to any object, which could not be blown away, then the balloon must be taken to be tethered to the site.

72. Further advice on the Aerial Advertising Regulations, and the recommended procedure in the event of an apparent contravention, is given in paragraphs 150 to 152 of Part 5 of this Annex.

Class 16 – Advertisements on telephone kiosks

73. **Class 16** is a new deemed consent class which will allow advertisements to be displayed on the glazed surface of a telephone kiosk provided they meet certain conditions and limitations. There is no limitation on the operator's name, branding or logo. Commercial advertisements are limited to one face of a telephone kiosk. The advertisements should be placed so as to avoid interference with the lines of sight for closed circuit television cameras (CCTV). Deemed consent can apply to both free standing telephone kiosks and kiosks sited in groups. When kiosks are sited in group layouts, for example, a row, a square, and L-shape, in order to minimise the visual impact, only alternate faces should carry advertisements and using consecutive faces is not permitted.
74. Geographical restrictions are imposed which prevent deemed consent applying to advertisements on telephone kiosks in a conservation area, National Park, the Broads, an area of outstanding natural beauty or an area of special control. No advertisement may be displayed on an historic telephone kiosk (a K2 (1927), or K6 (1935) telephone kiosk designed by Gilbert Scott). The advertisements themselves may not be illuminated.

Exclusion of deemed consent provisions by direction under regulation 7

75. Regulation 7 enables the Secretary of State to make a direction that the display of advertisements of a Class or description in Schedule 3 (except Classes 12 and 13) may not be undertaken without express consent. But the Secretary of State may only do so if requested to by a local planning authority. Before making any direction for this purpose, the Secretary of State must provide an opportunity for representations to be made to her against the local planning authority's proposal and take any representations into account in her decision. Where the proposal relates to a particular area, the Secretary of State must give public notice by publishing details of the proposed direction. Where it relates to a particular case, she must give details to those who are immediately concerned.
76. Where objections to a proposed direction are received, the Secretary of State may decide to offer the local planning authority and objectors the opportunity of being heard by an Inspector.
77. If the Secretary of State decides to make a direction under regulation 7, she must give her reasons in writing for doing so to the local planning authority and to anyone who has made representations in response to the regulation 7 notice. Details of the direction are to be published and notified to those immediately affected by it. The provisions of regulation 7 give people whose interests would be affected an opportunity of having their representations considered. The Secretary of State may also make a direction

which modifies the local planning authority's proposal provided that she has given the authority and anyone who has made representations notice of her intention to do so, and of her reasons, and has allowed them time to respond. The modification cannot have the effect of extending that land to which the authority's proposal relates. The Secretary of State may also make directions for limited, but renewable, periods.

Discontinuance action for advertisements displayed with deemed consent

78. If an advertisement has deemed consent, it is open to the local planning authority to take discontinuance action if the local planning authority is satisfied that it is necessary to remedy a substantial injury to the amenity of the locality or a danger to members of the public.
79. It may be difficult for local planning authorities to establish all the facts about the ownership of a site or those with an interest in its use for the display of advertisements. In order to overcome this, before a discontinuance notice is served, local planning authorities should serve a requisition for information notice (under section 330 of the Town and Country Planning Act 1990) to clarify who has an interest in the site. This may alert local planning authorities if the poster site has been transferred to a different poster company and enable the discontinuance notice to be served correctly.
80. Regulation 8(1) of the Regulations enables a local planning authority to take discontinuance action against either a specific advertisement (or advertisements) in the position where they are actually displayed, or against the use of a site for the display of advertisements which is to be specified in the discontinuance notice. This latter power is particularly suitable where temporary advertisements are to be discontinued. Temporary advertisements include poster hoardings where the poster element is always temporary but within specified limitations as to size etc (and the hoarding itself may be replaced with one of the same size but different materials). When using the power against a site, local planning authorities need to define precisely the site, or part of the site, to which the notice relates, so as to avoid discontinuing the display of any advertisements which are considered acceptable; and to be satisfied that complete removal of deemed consent rights for a defined area of land is fully justified in the interests of amenity or public safety. A discontinuance notice served to remove deemed consent from advertisements displayed under Class 13 may also be used to remove deemed consent from the site.
81. When the local planning authority decides to take discontinuance action, the discontinuance notice must be served on the owner and occupier of the site on which the advertisement is displayed and on the person who undertakes or maintains the advertisement display. Regulation 17(3) allows a person who has been served with a discontinuance notice to appeal against it to the Secretary of State.
82. Regulation 8(3)(c) provides that a notice must also specify the period within which the display or the use of the site must be discontinued. It will take effect at the end of this period unless there is an appeal or the notice is withdrawn or varied to extend the period. Local planning authorities should always consider the particular circumstances and allow a reasonable time for discontinuing a display, or use of a site, especially when discontinuance action is likely to have serious financial consequences for a particular advertiser.

83. The statement required by regulation 8(3)(d) should provide detailed information specific to the site or the advertisement. A discontinuance notice must contain a statement of the reasons why the local planning authority considers it necessary to serve the notice and why they consider that a substantial injury has been caused to the amenity of the locality or members of the public have been endangered. As substantial injury to the amenity of the locality is a more rigorous test than the interests of amenity local planning authorities will need to justify this in their statement of reasons. The local planning authority should include in the discontinuance notice a list of the names and addresses of the persons who have been served with a copy of the discontinuance notice. Appendix F gives advice about drafting discontinuance notices and three model forms of discontinuance notices are at Appendix F1, F2 and F3.
84. The local planning authority should consider whether a modified display would be acceptable and if so, they should inform the person displaying the advertisement. This is best done before serving the notice; but, if the notice has been served, and provided that no appeal has been made, the local planning authority should (before the notice takes effect) provide time for negotiation by withdrawing the notice or extending the period at the end of which it takes effect.
85. The discontinuance notice takes effect at the end of the period specified in the notice. This must be at least 8 weeks after the date it is served. However, if an appeal is made to the Secretary of State against the discontinuance notice, the date the notice takes effect will be the date the appeal is finally determined (i.e. the time limit for making any further appeal has passed), or the appeal is withdrawn or ceases to be effective. Where the local planning authority receives notification that an appeal has been made to the Secretary of State, not later than 14 days from the date of the notification, the local planning authority should send to the Secretary of State a copy of the discontinuance notice and a list of the names and addresses of the persons who have been served with a copy of the discontinuance notice.
86. The Secretary of State has power, conferred by regulation 26(1), to take discontinuance action for any advertisement displayed with deemed consent, or discontinuance of the use of a site, after consultation with the local planning authority.

Areas of special control of advertisements

87. Section 221(1) of the 1990 Act provides for regulations enabling the Secretary of State to make special provision for the control of advertisements in “areas of special control”, as defined in section 221(3), which may be:
 - (1) rural areas; or
 - (2) other areas which appear to the Secretary of State to require special protection on grounds of amenity.

The procedure for making areas of special control orders is in Part 4 of, and Schedule 5 to, these Regulations. Advice on areas which may be suitable for designation as areas of special control is given in PPG 19. If a local planning authority wishes to discuss whether an urban area they have in mind to define as an area of special control is likely

to obtain the Secretary of State's approval, they are invited to consult the Department for Communities and Local Government informally about their proposals at the earliest possible stage.

88. Once an order has been made by the local planning authority and approved by the Secretary of State, regulation 20(4) imposes a duty to review it at intervals of not more than 5 years from the date on which the order comes into force. When reviewing an order, local planning authorities should bear in mind that its purpose is to apply stricter standards of control over outdoor advertising because the area in question requires special protection on amenity grounds. It is therefore important to ensure, in any review, that the standards adopted in first making the order are consistently maintained throughout the whole area of special control whilst it remains in effect. Local planning authorities should therefore consider the desirability of adding further areas to an existing order and of removing areas in which stricter control is no longer appropriate, whenever they review an order.
89. Deciding whether to include more land in an existing order will depend on whether the proposed addition is of at least equal amenity value. Deciding whether to exclude land from an existing order is likely to depend on whether there has been substantial industrial or commercial development within the area of special control. If so, it should normally be removed from the scope of the order. When any development has been mainly residential, much will depend on its precise scale, nature, and location. One of the key objectives in PPS1 is that new developments are visually attractive as a result of good architecture and appropriate landscaping. If so it may be appropriate to retain the land within the area of special control.
90. If mineral-working has taken place, much will depend on the effect of the operations, their expected duration and the intended after-use of the land. When it is intended to restore the land to agricultural use, there need be no question of exclusion from an order; but, where the likely result of the development is a prolonged period of dereliction, exclusion of the land from the order may be appropriate.
91. Schedule 5 to the Regulations prescribes the procedures to be followed by the local planning authority in making and submitting an order to the Secretary of State for approval; and by the Secretary of State in approving an order, with or without modifications. Paragraph 5 of Schedule 5 provides that when an objection is made, in accordance with the requirements set by the Regulations, to a proposed order, the Secretary of State may cause a local inquiry or hearing to be held or consider the objection by way of written representations. Local planning authorities can do much to encourage informal consideration of a proposed order by consulting other interests such as the local trade, tourist and amenity organisations and any other interested bodies, at the earliest possible stage. Local planning authorities are strongly advised to consult the Outdoor Advertising Council which represents the interests of the outdoor advertising industry. The Council's Secretary, at chris@oacuk.net will be able to indicate whether there is likely to be opposition to an order from advertising interests.

PART 3: THE EXERCISE OF CONTROL

Express consent

92. When an advertisement to which the Regulations apply is not covered by one of the classes in Schedule 1 and does not qualify for deemed consent, an application must be made to the local planning authority for express consent to display the advertisement. “Local planning authority” is defined in regulation 2(1). An application relating to land in a National Park, outside a metropolitan county, is to be made direct to the relevant national park authority. All other applications are to be made to the relevant district planning authority or metropolitan district or London borough council.
93. The application must be made either electronically on the standard application form published by the Secretary of State and available on the Planning Portal via the following link www.planningportal.gov.uk or in writing on a paper copy of the form published by the Secretary of State and available from local planning authorities. Between 6 April and 1 October 2007 local planning authorities may as an alternative provide applicants with their own application form or the model application form at Appendix A to this Annex. Between 1 October and 1 November 2007 only applications in the pipeline may be made on these forms. From 1 October 2007 all new applications must be made either electronically or on the paper copy of the standard application form.
94. Applications should be accompanied by accurate plans, drawn to an identified scale, indicating the direction of North and showing the site and surroundings with at least two named roads. It is not necessary to provide Ordnance Survey maps. Photo montages showing the proposed advertisement on the site may help to give an impression of how the proposed advertisement would look on the site and how it would fit into the existing locality.
95. The appropriate fee for the category of advertisement to be displayed must accompany the application. The amount of the fee is prescribed in Fees Regulations SI 1989/193 (as amended by the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) Regulations 2005 SI 2005/843).
96. The application must confirm that the site owner and everyone else with an interest in the site consents to the application. Where the site is within the boundaries of a highway confirmation that the application is acceptable to the highway authority is required.
97. Local planning authorities may refuse an application if they have insufficient information to deal with it, or the information is so deficient that the application is not validly made. If the application contains enough information for the local planning authority to consider it, but there are doubts whether some points have been adequately resolved, the proper course is to explain to the applicant that refusal is likely unless further relevant information is provided. Local planning authorities are advised to follow this course, rather than refuse consent without giving the applicant the opportunity to submit further particulars. The local planning authority also has the power conferred by regulation 12(b) to direct an applicant to provide verifying evidence.

Consideration and determination of applications

98. The local planning authority's power to control advertisements under the Regulations may be used only in the interests of "amenity" and "public safety". This means amenity and public safety, as well as amenity or public safety. (See also paragraph 5 of this Annex on amenity and public safety.) Sub-paragraphs (a) and (b) of regulation 3(2) state the relevant factors for these purposes. Amenity is defined in regulation 2(1) to include aural and visual amenity, and public safety is not just road safety. Advice on assessing the effect of a proposed display on "amenity" and "public safety" is given in PPG 19. Further advice on the "public safety" aspects of any display is given in paragraph 112 below and in Appendix B to this Annex. Local planning authorities should also take into account any relevant provisions in the development plan in so far as they relate to amenity and public safety issues. Where there is a conflict between adopted policies and the advice in PPG 19, the PPG advice takes precedence.

Power of local planning authority to decline to determine applications

99. Regulation 14(1)(c) empowers a local planning authority to decline to determine repetitive similar applications for express consent. It does so by applying section 70A of the Town and Country Planning Act 1990, as modified by regulation 14(3) and Part 1 of Schedule 4. Where an appeal against the refusal of an application for express consent has been dismissed by the Secretary of State within the preceding two years, a local planning authority may decline to determine any similar application unless there has been a significant change in any material consideration. This two-year period runs from the date of the appeal decision, irrespective of any unresolved challenge in the Courts.
100. Section 70A(2), as applied and modified, defines applications as "similar" if the land and subject matter are, in the local planning authority's opinion, the same or substantially the same. Authorities should use the power conferred by regulation 14(1)(c) only where they consider that the applicant intends to exert pressure by submitting repeated similar applications, or where the applicant is using repeated applications as a delaying tactic to maintain the display of an unlawful advertisement. If an application has been revised in a genuine attempt to take account of objections to an earlier proposal, it should not be regarded as "similar" for the purposes of this section.
101. A change in a material consideration will be "significant" for the purposes of this section if it might be expected significantly to alter the weight of any consideration of amenity or public safety which was applied to the original application.
102. Local planning authorities may also decline to determine an application if it does not include confirmation that: the owners of the site and any other person with an interest in the site have agreed to the application; and where the site is on highway land, that the application is acceptable to the highway authority.
103. An application which under regulation 14(1)(c) a local planning authority declines to determine should be returned to the applicant and regarded as withdrawn. The local planning authority should also refund the application fee. The applicant has no right of appeal against non-determination of his application if the local planning authority has notified him that they have exercised their power under regulation 14(1)(c) to decline

to determine the application. There is no right of appeal against a decision to decline to determine an application. An applicant may, however, seek leave to apply for judicial review, by the High Court, of a local planning authority's decision to use this power.

104. In considering whether to exercise their power under regulation 14(1)(c), a local planning authority will sometimes have to consider doubtful cases. In general, it is a matter for the local planning authority's discretion whether or not to determine the application. No conclusion about the likely success of an application should be drawn from the decision by a local planning authority not to exercise their power under regulation 14(1)(c).
105. In an area of special control local planning authorities may decline to determine an application if it does not fall within any of the categories specified in regulation 21(1). The application fee should be refunded. There is no right of appeal.

Period of consent

106. All consents are subject to the "standard conditions" in Schedule 2 to the Regulations, but these do not control the duration of the consent. The normal period of express consent is 5 years but a local planning authority may grant consent for a shorter or longer period. When the period of express consent ends, an advertisement may normally continue to be displayed with deemed consent under the provisions of Class 14, but subject to discontinuance action under regulation 8 (see paragraphs 78 to 86). Occasionally the authority may wish to secure the removal of a display immediately after the express consent period ends, without the deemed consent coming into effect. To achieve this end the local planning authority may impose one or more conditions in addition to the standard conditions including a requirement that the advertisement be removed at the end of the specified period. This might be appropriate in the case of displays that are known to be unlikely to be acceptable beyond the period of express consent. Some examples which may justify removal would be where planned regeneration is expected to change the character of the locality, where there are temporary screening advantages from hoardings, or where advertising is specifically linked to some temporary activity such as a trade fair. These examples are not intended to be exhaustive. The important thing is that all additional conditions must be supported by specific and relevant planning reasons. They should never be imposed merely because the authority wishes, as a matter of general policy, to prevent the operation of Class 14 in its area. A local planning authority cannot impose more limiting conditions than would have applied under a deemed consent for that class of advertisement, if advantage had been taken of those provisions. If consent is granted for less than 5 years because the display is known to be unlikely to be acceptable beyond the temporary period in question, a specific condition requiring the removal of the display on the relevant date should be imposed on the consent. An application for renewal of express consent may not be made more than 6 months before the date on which the consent is due to expire (regulation 9(11)).

Notification of decision

107. The local planning authority's decision on an application for express consent must be given within 8 weeks, unless the applicant agrees in writing to a longer period. If the local planning authority refuses consent for the whole application or part of it; or grants consent subject to conditions other than the standard conditions (or if formerly a

deemed consent class in Schedule 3 the conditions attached to that class); or the period of consent is for less than 5 years; its reasons for doing so must be stated clearly (regulation 16(2)).

Register of applications

108. Regulation 24 requires every local planning authority to keep a register of applications for advertisement consent. Regulation 24(4) permits parts of the register to be kept in different offices within the local planning authority's area; and each office is to keep as much of the register as relates to the area it serves. This is intended to ensure that the information in the register is reasonably accessible to applicants and the general public throughout the local planning authority's area. The public should be able to see the register in the building where it is kept during the hours that the building is open for business.

Consultation about, and publicity for, applications

109. Regulation 13 requires the local planning authority to consult any neighbouring local planning authority where any part of that authority's area appears likely to be affected by a proposed advertisement display. For proposals relating to land within a National Park, other than land within a metropolitan county, the county planning authority must consult the district planning authority before granting an express consent. The Secretary of State looks to authorities to make appropriate working arrangements for this purpose.
110. The Regulations are exercisable in the interests of public safety, as well as amenity. Local planning authorities have a duty, under regulation 13, to consult the appropriate authority if they consider that granting express consent might affect the safety of persons travelling by road, rail, air or water. Advice on consultation about public safety implications for trunk roads and motorways, or on railways, waterways, docks, harbours, and aerodromes is given in Appendix B to this Annex. If granting express consent may affect the safety of persons using motorways or trunk roads the Secretary of State for Transport should be consulted (see paragraph 3 of Appendix B). Where the application is for an advertisement with moving features, moving parts or flashing lights and it would be visible from a highway the highway authority should be consulted.
111. Although there is no statutory requirement for local planning authorities to publicise advertisement applications, they should consider whether any application would affect the amenity of neighbours. Where it does, it is good practice to seek the views of neighbours before determining the application.

Revocation or modification of express consent

112. Express consent for the display of an advertisement can be modified or revoked by an order made under regulation 18 by the local planning authority. This is a rarely used reserve power mainly intended for the correction of consents granted in error. The order cannot take effect without the Secretary of State's approval. Such action can only be taken before the display commences; or, if building or other operations are involved, before their completion. Notice of the submission of such an order to the Secretary of State must be served on everyone affected by it. Local planning authorities may also advertise the fact that they have submitted the notice to the Secretary of State in

newspapers circulating in the locality. Anyone who has been notified of the order and objects to it must be offered the opportunity of a hearing before a person appointed by the Secretary of State. If there is such an objection, the local planning authority will be given the same opportunity.

113. Provided a written claim is submitted to the local planning authority within six months of the Secretary of State's approval of the order, compensation (in accordance with regulation 19(2)) must be paid for any proved expenditure in carrying out abortive work such as the preparation of plans, loss, or damage directly attributable to the revocation or modification, other than any depreciation in the value of any interest in the land. Compensation is not payable for any work done, or any loss or damage as a result of anything done or not done, before the consent was granted.

PART 4: APPEALS TO THE SECRETARY OF STATE

Right of appeal

114. There is the right of appeal to the Secretary of State in the following circumstances:

- (1) an application for consent to display an advertisement has been refused;
- (2) consent has been granted subject to conditions (other than the standard conditions) which the applicant considers to be unacceptable;
- (3) the local planning authority fail to give their decision within the prescribed period of eight weeks (or a longer period if this has been agreed);
- (4) a discontinuance notice has been served.

An appeal must be made in writing within eight weeks of the date of the local planning authority's decision, unless an extension of time has been agreed. Where a discontinuance notice has been served an appeal must be made before the notice is due to take effect.

115. The appeal provisions closely follow the provisions for planning appeals, in sections 78 and 79 of the 1990 Act, except that the time scale for submitting advertisement appeals is eight weeks. The period of eight weeks starts on the date the decision is received. When giving notice of appeal, the relevant documents must also be submitted to the Planning Inspectorate acting on behalf of the Secretary of State. Appellants should give explicit reasons why they object to the local planning authority's decision. It is insufficient merely to state that they disagree. This delays the appeal process. There is discretion to permit an appeal out of time but convincing reasons must be provided to justify such action.

Procedure on appeals

116. The appeal decision is usually based on consideration of the parties' written representations and an unaccompanied inspection of the site by an Inspector. It is also open to the appellant and the local planning authority to put their case at a hearing. The Planning Inspectorate will make the necessary arrangements and appoint an Inspector to the case. The Inspector will listen to the representations and inspect the

site, accompanied by the parties if requested. He will subsequently issue the decision. Hearings are much slower and administratively the more expensive procedure. Therefore a hearing should not be requested unless it is essential. The Secretary of State has the power to insist on a hearing if he considers it necessary to properly assess the issues. In practice, this rarely occurs.

117. To make an advertisement appeal, an official form available from the Planning Inspectorate should be used or the appeal form may be completed electronically using the Planning Portal. Details are set out in Appendix C. Appellants should adopt the procedure outlined below. Local planning authorities should include in their “Notes for Guidance” the address of the appropriate local authority department to which a copy of the appeal form should be sent.
118. The appeal procedure operates as follows:
 - (a) Written representations.
 - (1) The completed appeal form should be sent to the Planning Inspectorate, with one copy sent simultaneously to the local planning authority. The appeal form should be accompanied by a copy of the original application together with any plans or other documents submitted with it, and where appropriate, a copy of the decision made by the local planning authority. Any photographs the appellant wishes to submit should also be included.
 - (2) Within 3 weeks of receiving its copy of the appeal, the local planning authority is required to submit its written representations to the Planning Inspectorate and copy them simultaneously to the appellant.
 - (3) If the appellant has any further representations, they should be submitted to the Planning Inspectorate within 2 weeks of receiving a copy of the local planning authority’s written representations.
 - (4) Unless these further representations raise any new issues, there will be no further invitation to the local planning authority to comment, and the appeal will proceed at once to decision.
 - (b) Oral representations at a hearing.
 - (1) Step (1) in paragraph 118(a) above applies.
 - (2) When a date for a hearing has been agreed, the local planning authority is required (by the 2007 Direction), and the appellant is encouraged, to submit a copy of its written statement, together with the necessary photographs, plans and documents, to the Planning Inspectorate and the appellant 28 days before the notified hearing date.

Local Planning Authority’s written statement for appeals

119. Many local planning authorities produce written statements on advertisement appeals which include unnecessarily detailed descriptions of the appeal site and lengthy statements of advertisement control policies. Local planning authorities will lose

nothing by concentrating their written statement on a succinct description of the appeal site, and a concise account of the “visual amenity” and “public safety” factors on which their decision was based. This would be a more efficient and effective use of scarce resources, to the benefit of the appeal process. The suggested format of a model statement is at Appendix D to this Annex.

Guidance on appeal procedures

120. To help intending appellants to select which appeal procedure is best suited to their circumstances, local planning authorities should give guidance about the available appeal procedures. Model “Notes for Guidance about advertisement appeal procedures” are provided at Appendix C.

Procedure for appeals against discontinuance notices

121. Before a discontinuance notice is served, local planning authorities should serve a requisition for information notice (under section 330 of the Town and Country Planning Act 1990) to clarify who has an interest in the site. This will alert local planning authorities if the poster site has been transferred to a different poster company and enable the discontinuance notice to be served correctly.
122. Local planning authorities should serve the discontinuance notice on the owner and occupier of the site on which the advertisement is displayed and on the person who undertakes or maintains the advertisement display. They may also serve the discontinuance notice on the person or company whose interests are being served by the advertisement, if they feel that this is necessary.
123. The discontinuance notice should clearly state whether it is against a particular advertisement or against the use of the site. Regulation 8(3)(d) requires the local planning authority to provide a statement of the reasons why they consider it necessary to serve a “discontinuance notice”, requiring the use of a site or the display of an advertisement to cease. This should say why the use of the site or the display is now causing a substantial injury to the amenity of the location and/or a danger to public safety. If this statement is sufficiently detailed, there is no need for the local planning authority to elaborate on their reasons for serving a discontinuance notice in a separate statement. But where it is not, a separate statement will be requested.
124. Local planning authorities will not have to supply a written statement on discontinuance notice appeals proceeding by written representations. Instead, the following procedure will apply:
 - (1) the appellant will give a full statement of his reasons for appealing against a discontinuance notice when the appeal is first made;
 - (2) on receipt of such an appeal the Planning Inspectorate will ask the local planning authority to submit their comments on the appellant’s statement of his reasons for appeal, within a time-limit of 3 weeks from the date of the Planning Inspectorate’s request, and to copy their comments simultaneously to the appellant;

- (3) if the appellant has any further comments, they should be submitted to the Planning Inspectorate within 2 weeks of receiving a copy of the local planning authority's comments;
- (4) unless these further comments raise any new issues, there will be no further invitation to the local planning authority to comment, and the appeal will proceed at once to decision.

125. Local planning authorities should be aware that a discontinuance notice served on advertisements displayed under Class 13 to remove deemed consent from the display of advertisements may also be used to remove deemed consent from the site on which they are displayed (regulation 8(1)).

Dismissal of appeals in cases of undue delay

126. Section 79(6A) of the Town and Country Planning Act 1990, as applied by regulation 17 and Parts 3, 4 and 5 of Schedule 4, empowers the Secretary of State to issue a warning to an appellant that the appeal is being unduly delayed. It will require him to carry out certain steps. If the appellant subsequently fails to carry out these steps within the time-limit specified, the appeal may be dismissed for reasons of undue delay, without considering its planning merits. The validity of any such decision may be challenged in the usual way by making an application to the High Court under section 288 of the Town and Country Planning Act 1990.

127. Use of this power would be considered if, at any stage of the appeal procedure, an appellant refuses to co-operate in processing an appeal, or otherwise obstructs that process. The power would not normally be used if the appellant could show reasonable grounds for his behaviour. The progress of negotiations with the local planning authority on a similar application for express consent will not necessarily be regarded as reasonable grounds.

The decision on an appeal

128. An appeal may be allowed, dismissed, or any part of the local planning authority's decision may be reversed or varied. These options also apply where the appeal is against a condition imposed on a consent. An application may also be treated as if it had been made to the Secretary of State in the first instance. The decision in such a case is final and takes effect as if it were the local planning authority's decision, subject only to the right of either party to challenge the decision in the High Court on a point of law, in accordance with the provisions of section 288 of the Town and Country Planning Act 1990.

PART 5: UNAUTHORISED ADVERTISEMENTS

Fly-posting

129. The requirement in standard condition 1 in Schedule 2, to obtain the site-owner's permission to display any advertisement is intended to enable local planning authorities to deal effectively with fly-posting, that is, the display of advertisements without the consent of the owner or occupier of the land or premises. The view is taken that such

advertisements are entirely unauthorised; and their display entails liability not only on the person actively responsible for putting up the advertisement but also on the owner of the land and the person benefiting from the display.

130. There have been successful prosecutions against those who have been responsible for events advertised by means of fly-posting; but section 224(5) of the Town and Country Planning Act 1990 provides that the owner or occupier of the land on which there is fly-posting, or the person whose goods, trade, business or other concerns are advertised, shall not be guilty of an offence if that person can prove that the fly-posting was done without his knowledge, or that he took all reasonable steps to prevent the display, or subsequently, to secure its removal.

Recent changes to legislation

131. Under the Town and Country Planning Act 1990 (TCPA 1990) local planning authorities can take action against those responsible for fly-posting and remove illegal posters and placards and recover the costs incurred in doing so from those who have displayed them, or caused them to be displayed. Local planning authorities should make use of these powers in the first instance to prosecute offenders and claim the costs of removal from the perpetrators of the crime.
132. Under section 224 it is immediately an offence to display an advertisement in contravention of regulations made under section 220 of the 1990 Act, and a person found guilty of this offence may be fined up to £2,500 (level 4) in a magistrates' court and £250 for each day that the offence continues after conviction. Section 33 of the Clean Neighbourhoods and Environment Act 2005 amended the defence in section 224 so that someone charged with the offence of displaying an illegal advertisement has to prove either that the advertisement was displayed without his knowledge; or that he took all reasonable steps to prevent the display, or subsequently, to secure its removal. This makes it more difficult for the beneficiaries of fly-posting to avoid prosecution simply by claiming that they never consented to the advertisement.
133. Local planning authorities are able to recover their costs of removing posters and/or placards by direct action. New cost recovery provisions have been introduced by section 34 of the Clean Neighbourhoods and Environment Act 2005 which amends section 225 of the TCPA 1990. These costs are recoverable from the person who displayed the poster and/or placard, or caused it to be displayed, or, if they are not able to be identified from the poster or placard, from the persons whose goods, services or concerns are publicised. Local planning authorities have rights of entry to occupied and unoccupied land in order to remove unlawful posters and/or placards. In order to protect the rights of property owners and those advertising legally compensation may be paid for damage caused as a result of the removal process and/or the removal of a poster and/or placard which may have been displayed legitimately.
134. Section 31 of the Clean Neighbourhoods and Environment Act 2005 extended graffiti removal notices to cover fly-posting. The new combined notices are now known as defacement removal notices. Local planning authorities can issue defacement removal notices to require statutory undertakers and others responsible for street furniture and other "relevant surfaces" to remove graffiti and fly-posters where street furniture and other "relevant surfaces" are defaced by graffiti and fly-posters in a manner that is detrimental to the amenity of the area or is offensive. If a defacement removal notice

is not complied with, the local authority can remove the graffiti and fly-posters itself and reclaim the cost of doing so. This power does not apply to privately-owned buildings facing on to the street.

135. Defacement removal notices are not intended to be used to deal with new cases of fly-posting. In such cases use of the TCPA 1990 to pursue the beneficiaries or those responsible for the fly-posting will be more appropriate, more effective and quicker. Rather, they are meant to enable local planning authorities to address situations in which relevant surfaces are defaced both by graffiti and fly-posting. However, removal notices can be used where defacement is caused solely by fly-posting; for example, by a build-up of flyers and stickers over time.
136. Where the question of 'unlawfulness' turns on the interpretation of deemed consent under Schedule 3 of the Control of Advertisements Regulations 2007, local planning authorities should not use defacement removal notices which apply to fly-posters as a way of challenging whether an advertisement has been displayed in contravention of the 2007 Regulations.
137. The display on or in the vicinity of a public telephone kiosk, of advertisements relating to prostitution is an offence under section 46 of the Criminal Justice and Police Act 2001. Local planning authorities should not use the provisions of the TCPA 1990 to prosecute offenders for these offences or the defacement removal notice provisions to deal with the matter.

Prosecuting fly-posters

138. The Good Practice Guide "The Control of Fly-Posting", published in 2000 and available from the Stationery Office, provides local planning authorities with a manual of practical advice to assist them in controlling fly-posting. It includes examples of initiatives which have been used by local authorities to tackle fly-posting.
139. Local planning authorities may find the following procedures useful as means of bringing successful prosecution of fly-posting under section 224(3) of the 1990 Act:
 - (1) enforcement officers' duties should include keeping regular watch for any new fly-posting;
 - (2) enforcement officers should note all new fly-posting sites, photograph them (and date the photographs) and, where possible, remove a copy of the illegal poster for exhibition in Court;
 - (3) the local planning authority should take positive steps to find the person who benefits from the advertisement, either by a personal call from an enforcement officer at an address shown, or to the company who printed the posters, or by enquiring at the venue of the function (perhaps necessitating a visit to the function out of normal working hours);
 - (4) the enforcement officer, with guidance from the local authority's legal adviser, should advise the person responsible, usually the organiser of an advertised event, that the posters contravene the Control of Advertisements Regulations and give that person a detailed description of the places where they are displayed. The

person responsible should be told to remove the advertisements within two days and warned that non-compliance may lead to court proceedings. This should be confirmed by recorded delivery letter;

- (5) in most cases the person responsible should be told to remove the advertisement. The option of obliterating the advertisement should be used only in those cases where the local planning authority consider that removing the fly-poster will cause damage to the surface of the building or structure to which it is fixed;
- (6) if the posters are not removed within the two days, the local planning authority should issue summonses; and the enforcement officer with guidance from the authority's legal adviser, should prepare a brief statement, supported by photographs and/or a copy of the poster and a copy of the recorded delivery letter which warned the person responsible that the event had been illegally fly-posted.

140. Local planning authorities using these procedures have been able to satisfy Magistrates' Courts that adequate warning was given, so that the organiser or promoter could not claim to be unaware of the illegal advertising. Quite frequently the preliminary warning letter (sub-paragraph (4) above) has been enough by itself to ensure that posters are removed. (Because some events which are advertised by fly-posting are held in premises owned by local authorities, it would help local planning authorities to adopt a policy of warning prospective hirers of municipally owned premises that they must not advertise any event in this unauthorised way.)

Removing or obliterating certain advertisements

141. Local planning authorities are reminded that section 132 of the Highways Act 1980 enables the highway authority to remove unlawful advertisements such as pictures or signs attached to any trees, structures or works in the highway.

142. Section 225 of the 1990 Act enables a district council or London borough council "to remove or obliterate any placard or poster" displayed illegally in their area. Before this power can be exercised, subsections (3) and (5) require advance written notice to be given, to anyone who can be identified as the person responsible for the display, that-

- (1) in the local planning authority's opinion it is displayed illegally; and
- (2) the local planning authority intends to remove or obliterate it after the expiry of a period specified in the notice.

Subsection (5) specifies the period of advance notice as "not less than two days from the date of service of the notice". *Thus two clear days after the date when the notice is served must be allowed before the local planning authority proceeds to remove or obliterate the display.* In practice, a local planning authority may prefer to allow longer than the minimum period of two clear days.

143. The main purpose of this advance notice procedure is to enable anyone who genuinely believes that the poster or placard is being displayed with either "deemed consent", or an "express consent", to tell the local planning authority that this is the case; and, if he wishes, to ask them to reconsider their intention to remove the placard or poster. Because this procedure may involve a local planning authority in abortive

administrative work in trying to trace the whereabouts of the person due to be notified, subsection (4) of section 225 has the effect of specifically exempting the local planning authority from giving notice where the placard or poster does not give the address of the person displaying it (as well as his name) and the local planning authority do not know that address and are unable to ascertain the relevant address after making “reasonable inquiry” about it. What is “reasonable inquiry” is a matter for each local planning authority to determine in the particular circumstances. When the placard or poster identifies the person displaying it as someone (including a commercial concern) well known nationally or locally, but does not give an address, it would appear reasonable for the local planning authority to give advance notice of their intention when they can readily obtain, or already know, the relevant address to which the notice should be sent.

144. There is no definition of the terms “placard” and “poster” in section 225 of the Town and Country Planning Act 1990. It is therefore a matter for the local planning authority and, ultimately, the courts to decide on the facts of each case. If a placard or poster is displayed by means of securing it temporarily to an “A-board”, it would appear that the power applies only to the placard or poster and *not* to the A-board itself.

Powers of entry

145. Subsection (3) of section 324 of the 1990 Act deals with rights of entry on to land or premises. This subsection gives a local planning authority’s duly authorised officer a power, at any reasonable time, to enter land or premises for the purpose of exercising the power in section 225 whether the land or premises are occupied or unoccupied; and the power cannot be exercised without entering the land or premises. Section 34 of the Clean Neighbourhoods and Environment Act 2005 amended section 324 of the 1990 Act to allow entry to occupied land as well as unoccupied land.

Removing painted signs

146. The power to remove or obliterate does not apply to painted signs, slogans or material which appear on buildings, walls or street furniture. However, local planning authorities should take whatever steps they consider appropriate to remove such painted signs, slogans or material (especially any intended to incite racial or religious hatred) as part of their normal cleaning and environmental improvement functions in their area (see also paragraph 134 on defacement removal notices). The highway authority has powers under s132 of the Highways Act 1980 to remove painted signs, slogans or material which appear on street furniture.

Advertisements alongside motorways and trunk roads

147. Rural areas are usually included in areas of special control which means that advertisement hoardings alongside motorways, trunk roads and railways in these areas are prohibited. Advertisement hoardings in other areas require express consent before they can be lawfully displayed. Any advertisement, including any advertisement in the deemed consent classes which does not comply with the conditions and limitations for its class also requires express consent. Advertisements on vehicles or trailers parked in fields, verges, or in lay-bys require express consent. Only when the vehicle is used as a moving vehicle and is not used principally for the display of advertisements is any advertisement on it lawful. It is an immediate offence to display an advertisement without the required consent. The site where the vehicle is parked for any length of

time becomes a site for the display of advertisements. The “site” can be regarded as all the land owned by the owner of the site, or the length of the highway in the local planning authority’s area.

148. As there are road safety issues in displaying advertisements alongside motorways and other trunk roads the Highways Agency should be consulted about any application for express consent. The Highways Agency is unlikely to support any application for an advertisement which could distract drivers. (See also the advice in paragraph 6 of Appendix B.) The road safety and amenity issues raised by these advertisements mean that it is unlikely that express consent to display them would be given.

Profits from illegal advertising

149. In prosecuting any contravention of the Regulations, local planning authorities should bring to the Court’s attention the likely amount of profit accruing from the illegal display of an advertisement. This will help Magistrates to assess (within the statutory limits) a penalty commensurate with the offence. Since it is a well-established principle of sentencing that the financial benefit of any offence should not outweigh the penalty, local planning authorities should include any relevant information about profits and details of any other successful prosecutions for previous similar offences when presenting a case to Magistrates.

Contravention of Aerial Advertising Regulations

150. The Civil Aviation (Aerial Advertising) Regulations 1995 provide that any aircraft, other than a captive balloon, may display any mark or inscription on its body, other than an illuminated sign. A captive balloon (other than a controllable balloon) may display any mark or inscription on a banner or pennant attached to its mooring cables. Advertising is permitted on the body of a captive balloon, provided that the body of the balloon:

- i) is not more than seven metres in any linear dimension;
- ii) does not have a total capacity of more than 20 cubic metres.

151. The Civil Aviation Authority’s permission is required under Article 86 of the Air Navigation Order 2000, to fly a captive balloon more than 60 metres above ground level. All applications for permission must state whether or not the local Police have any objections. Applications should be made to:

Airspace Utilisation Section
Civil Aviation Authority
CAA House
45–59 Kingsway
London WC2B 6TE.

152. If a balloon is apparently flown above 60 metres from the ground, the local planning authority should first check with the local Police whether any permission for the balloon has been given by the Civil Aviation Authority. Where a breach of the Air Navigation Order or the Aerial Advertising regulations is suspected, it should be reported to:

Aviation Regulation Enforcement Branch
Civil Aviation Authority
CAA House
45-59 Kingsway
London WC2B 6TE.
Telephone: 020 7453 6193

PART 6: OTHER MATTERS

Sign posting of farm outlets and local tourist facilities in rural areas

153. Local planning authorities in scenically attractive rural areas frequently have to decide advertisement applications for “advance signs”, to be sited off highway land, directing potential customers to local farm outlets or local tourist facilities, e.g. a hotel, restaurant, or inn, or bed and breakfast accommodation, or a craft workshop, situated well away from any main road. This type of advertisement application may conflict with authorities’ policy statements for the display of outdoor advertisements. Nevertheless, in dealing with applications for “advance signs”, to be sited off highway land, for farm outlets or local tourist facilities, local planning authorities should bear in mind that effective sign posting is often a vital way of attracting potential customers to such facilities and thus benefiting the local economy in their area. If consent for an “advance sign” has to be refused, on grounds of “amenity” or “public safety”, efforts should be made, where practicable, to suggest an alternative site or sign and to co-operate with the applicant in devising a sign posting scheme which is acceptable in the locality. Local planning authorities in rural areas should co-operate with other organisations, such as the Regional Tourist Boards and the Rural Development Commission, in producing and encouraging the display of environmentally acceptable sign posting schemes where it is clear that an approved scheme will help to avoid a proliferation of poorly designed signs.

Shrouds and large wrap advertisements

154. Buildings which are being renovated or are undergoing major structural work and which have scaffolding or netting round them may be potential temporary sites for shroud advertisements or large wrap advertisements covering the face, or most of the face, of the building. In all cases express consent will be required for these advertisements which can remain in place until the scaffolding or netting is removed. These advertisements should be considered on a site specific basis taking account of amenity and public safety issues.

Lasers, search lights, beams of light, projected illuminated advertisements

155. Lasers, search lights and beams of light should be regarded as advertisements and will require express consent. All illuminated advertisements projected onto buildings, or landscapes, or sky require express consent. All these kinds of illuminated advertisements should be considered on a site specific basis taking account of amenity and public safety issues.

APPENDIX A to Annex to Communities and Local Government Circular 03/2007

[Between 6 April 2007 and 1 October 2007 this form or the standard application form may be used. After 1 October 2007 this form must not be used, only the standard application form must be used. (See paragraph 93.)]

You are advised to read the accompanying notes before completing any part of this form.

Application for consent to display an advertisement

Town and Country Planning Act 1990

The Town and Country Planning (Control of Advertisements) (England) Regulations 2007

Completed copies of this form and the drawing specified overleaf (see note 3) should be sent to:

1. APPLICANT (Block capitals please)
Full Name _____
Address _____
Postcode _____
Tel. No. _____

2. AGENT (if any) (Block capitals please)
Full Name _____
Address _____
Postcode _____
Tel. No. _____

3. Full postal address or location of the land on which the advertisement is to be displayed.

4. State the purpose for which the land or building is now used.

5. (a) Has the applicant an interest in the land? YES/NO*

- (b) If NO, has the permission of the owner, or of any other person entitled to give permission for the display of the advertisement, been obtained? YES/NO*

6. (a) State the nature of the advertisement
(e.g. hoarding, shop sign, projecting sign, etc).

- (b) Is the advertisement already being displayed? (see note 5). YES/NO*

7. Description of advertisement (see note 4). Size(m) Illumination type

(i) _____

(ii) _____

(iii) _____

(Continue on separate sheet, if necessary)

8. Period for which consent is sought (see note 2).

*Delete as appropriate

I enclose a cheque or money order for the appropriate fee of £

Signed

Date

(applicant/agent)

NOTES

General

1. Under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, many outdoor advertisements require “express consent” from the local planning authority (usually the district council) before they can be lawfully displayed. Applicants should refer to the Regulations or to the explanatory booklet (obtainable from the Council) if they would like more information.

Period of consent

2. The maximum period for which the Council will grant consent is normally 5 years; but they have discretion to grant consent for a longer or shorter period. If you are seeking consent for more or less than 5 years, please state for how long in section 8 of the application form, giving brief reasons.

Drawings required

3. The drawing of the proposed advertisement should show its dimensions and position on the land or building in question. For a sign, the drawing should indicate the materials to be used, fixings, colours, height above the ground and, where it would project from a building, the extent of the projection. A site location plan should also be provided which identifies the proposed position of the advertisement and location of the site by reference to at least two named roads. It should be drawn to an identified scale and show the direction of North. Ordnance Survey maps are not required. Photographs and photomontages may be used.

Description of signs, size and illumination

4. The *type* of each sign for which application is being made, e.g. fascia, projecting box, pole-mounted free-standing, should be shown, together with the dimensions of each sign; and, if any of the signs are to be illuminated, the type of illumination, e.g. internal, external, floodlight, etc, and whether the illumination will be static, or flashing, or have moving parts.

Owner's consent

5. It is a condition of *every* consent granted by or under the Regulations that, before displaying any advertisement, the permission of the owner of the land or other person entitled to grant permission must be obtained. To display any advertisement without this permission is an offence, open to immediate prosecution.
6. Where the site is within the boundaries of a highway, confirmation that the application is acceptable to the highway authority is required.

Other consents

7. A grant of consent under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 does not rank as consent which may be required for any other purpose, e.g. "listed building consent" where the advertisement is to be displayed on any listed building and any such consents will need to be separately obtained.

Fees for advertisement applications

8. Regulation 11 of the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989, as amended, requires a fee to be paid to the Council with the advertisement application. The fee is related to each site on which it is proposed to display one or more advertisements. The current level of fees is set out in Schedule 2 to the 1989 Regulations (as substituted by the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 2005). Where the local planning authority declines to determine an application under regulation 14(1)(c) or regulation 21(1) the fee should be refunded.

APPENDIX B to Annex to Communities and Local Government Circular 03/2007

Consideration of, and consultation regarding, possible effect of advertisements on public safety

This Appendix sets out the relevant considerations to be taken into account by local planning authorities in assessing “public safety” factors arising from advertisement applications. The Appendix deals with four different forms of transport, where public safety factors are material and with other public safety considerations.

ROADS

General considerations

1. All advertisements are intended to attract attention. But particular consideration should be given to proposals to site advertisements at points where drivers need to take more care, for instance at junctions, roundabouts, pedestrian crossings, on the approach to a low bridge or level crossing, or other places where local conditions present traffic hazards. There are less likely to be road safety problems if the advertisement is on a site within a commercial or industrial locality, if it is a shop fascia sign, name-board, trade or business sign, or a normal poster panel, and if the advertisement is not on the skyline.
2. The main types of advertisement which may cause danger to road users are:
 - (a) those which obstruct or impair sight-lines at corners, bends or at a junction, or at any point of access to a highway;
 - (b) those which, because of their size or siting, would obstruct or confuse a road-user’s view, or reduce the clarity or effectiveness of a traffic sign or signal, or would be likely to distract road-users because of their unusual nature;
 - (c) those which effectively leave insufficient clearance above any part of a highway, or insufficient lateral clearance for vehicles on the carriageway (due allowance being made for the camber of the road-surface);
 - (d) those illuminated signs (incorporating either flashing or static lights)-
 - (i) where the means of illumination is directly visible from any part of the road;
 - (ii) which, because of their colour, could be mistaken for, or confused with, traffic lights or any other authorised signals;
 - (iii) which, because of their size or brightness, could result in glare and dazzle, or distract road-users, particularly in misty or wet weather;

- (e) those which incorporate moving or apparently moving elements in their display, or successive individual advertisements which do not display the whole message;
- (f) those requiring close study (such as Public Information Panels), which are situated so that people looking at them would be insufficiently protected from passing vehicles; or those advertisements sited on narrow footpaths where they may interfere with safe passage by causing pedestrians to step into the road;
- (g) those which resemble traffic signs, as defined in section 64 of the Road Traffic Regulation Act 1984, and may therefore be subject to removal by the highway authority under section 69 of that Act, for example-
 - (i) those embodying red circles, crosses or triangles, or any traffic sign symbol; or those in combinations of colours which might otherwise be mistaken for traffic signs;
 - (ii) those incorporating large arrows or chevrons with only the arrow or chevron made of retroreflective material or illuminated, causing confusion with similar signs in use at, or approaching, roundabouts;
- (h) those which embody directional or other traffic elements and which need special scrutiny because of possible resemblance to, or confusion with, traffic signs, e.g. advertisements which-
 - (i) contain a large arrow or chevron (or have a pointed end and have only a few words of message);
 - (ii) invite drivers to turn right on a main road, or where there is fast moving traffic;
 - (iii) invite drivers to turn, but are sited so close to the turning that there is not enough time to signal and turn safely;
 - (iv) are so close to similar advertisements, or official traffic signs, that road-users might be confused in the vicinity of a road junction or other traffic hazard.

In many cases it may be possible for the hazardous traffic features of the display to be removed by, for example, re-siting the sign, or screening of floodlights, or changing the colours of lights. Such changes might be achieved by discussing a suitable alternative display with the intending advertiser.

TRUNK ROADS

Consultation

3. In accordance with regulation 13(1)(c), where it appears to a local planning authority that the safety of users of trunk-roads in England may be affected by the display of advertisements, they must seek the advice of the Secretary of State for Transport before granting consent. Applications for advertisements that might affect the safety of users of trunk roads should be referred to the appropriate Regional Office of the Highways

Agency. Where the trunk-road is in Greater London applications should be referred to Transport for London. (A trunk road, by definition, includes a special road or motorway for which the Secretary of State for Transport is the highway authority.) The surveyor of the appropriate agent authority may be able to advise initially whether the safety of road-users is likely to be affected.

4. Regulation 13(1)(e) imposes a duty to consult the highway authority about applications for express consent for advertisements with moving features, moving parts or flashing lights that are visible from a highway. If the local planning authority has any doubt about the effect of any other advertisement on public safety, they should also consult the local highway authority. It is for the local planning authority to decide whether they agree with the advice from the highway authority on any particular case. They should not to rely on it automatically.
5. Section 64 of the Road Traffic Regulation Act 1984 defines “a traffic sign” by reference to regulations. The relevant regulations are the Traffic Signs Regulations 2002 and the Traffic Signs Regulations and General Directions 2002. Section 69 of the 1984 Act gives highway authorities a discretionary power to remove anything which resembles but is not legally a “traffic sign”. The Control of Advertisements Regulations do not affect this provision. If therefore, a local planning authority, when considering an application for the display of an advertisement, think that it might resemble a traffic sign, they should consult the local highway authority before granting express consent. Types of advertisements in the nature of traffic signs are listed in paragraph 2 (d)(ii), (g) and (h) of this Appendix.

MOTORWAYS

6. Land alongside motorways is landscaped for reasons of safety and appearance. Only prescribed or authorised traffic signs are permitted on land acquired for motorways. Advertisements may, however, be permitted within a motorway “service area”. Local planning authorities should ensure that on other land alongside motorways no advertisements which could adversely affect amenity, or constitute a danger to traffic are allowed. Where the route of a proposed motorway lies within an area subject to special control of advertisements, a general prohibition of large scale advertising and certain other limitations already applies. (See also paragraphs 147 and 148 of the Annex to this Circular.)

RAILWAYS

7. Under certain conditions, advertisements, whether illuminated or not, can interfere with railway safety in the following ways:
 - (a) by interfering with the visibility or interpretation of fixed signals;
 - (b) by causing the illusion of a signal where no signal is situated;
 - (c) by being mistaken for hand signals;
 - (d) by interfering with warning boards, speed-restriction signs, tail-lights, or other signs or lights;

- (e) by interfering with the visibility of level crossings;
- (f) by interfering with the visibility of level crossing signs and signals for road and rail users.

Green, yellow or red illuminated advertisements are particularly liable to cause such difficulties.

8. The railway company or other statutory undertaking should be consulted, in accordance with regulation 13(1)(d), in the case of illuminated advertisements visible from the railway track, or non-illuminated advertisements adjacent to the railway track, which could possibly interfere with its safe operation.
9. For Network Rail, consultation should be through the Zone Director of the appropriate Zone/Region. Their addresses are as follows:

Region	Address
London Midland	The Zone Director London Midland Zone 100 Wharfside Street The Mailbox Birmingham B1 1RT
Western	The Zone Director Western Zone 125 House Gloucester Street Swindon Wiltshire SN1 1GW
Eastern	The Zone Director Eastern Region 12-34 Great Eastern Street London EC2A 3EH
London North East	The Zone Director London North East Zone Hudson House Toft Green York YO1 6HP
Southern	The Zone Director Southern Zone Waterloo Station London SE1 8SE

North West

The Zone Director
North West Zone
Rail House
Store Street
Manchester M60 7RT

If there is doubt about the appropriate Zone, the local station manager will advise.

For the railways of London Underground Limited, consultation should be with:

The Managing Director (Railways)
London Underground Limited
55 Broadway
London SW1H 0BD

For railways not managed by Network Rail or London Underground Limited, consultation should be with the secretary or manager of the undertaking concerned.

INLAND WATERWAYS, DOCKS, HARBOURS AND COASTAL WATERS

10. Local planning authorities should consider whether any particular advertisement is likely to obstruct, or cause confusion in the interpretation of, navigation lights, beacons and similar signs and warnings to vessels using inland waterways, docks and harbours, and coastal waters. Advertisements should not overhang or obstruct a waterway; nor should they be displayed or erected in such a manner as to obstruct or interfere with navigation by hindering a clear view of the waterway from a vessel, particularly at bends.
11. Where it appears to a local planning authority that an advertisement may affect the safety of a waterway (including coastal waters), dock or harbour, they have the duty, under regulation 13(1)(d), to consult the responsible bodies.
12. For inland waterways owned or managed by British Waterways, local planning authorities should consult the appropriate Regional Director. Their addresses are:

Regional Director – London
The Toll House
Delamere Terrace
Little Venice
London
W2 6ND

Regional Director – Southern
Brindley Suite
Willow Grange
Church Road
Watford
WD17 4QA

Regional Director – Midlands and South West
Peels Wharf
Lichfield Street
Fazeley
Tamworth
Staffs
B78 3QZ

Regional Director – North East
Fearn's Wharf
Neptune Street
Leeds
LS9 8PB

Regional Director – North West
Navigation Road
Northwich
Cheshire
CW8 1BH

13. For docks and harbours, consultation should be with the appropriate dock or harbour authority.
14. For harbour approaches (or other coastal waters where there are navigational lights), consultation should be with The Secretary, Trinity House, London EC3N 4DH.

AIRPORTS

15. An advertisement may endanger the safety of aircraft because:
 - (a) its glare may dazzle a pilot of an aircraft taking off or landing at an aerodrome;
 - (b) it may be mistaken by a pilot for visual guidance signals (e.g. the visual glide path) on the approach to an aerodrome;
 - (c) it may constitute an obstacle to an aircraft if it is on high ground or in the immediate vicinity of an aerodrome;
 - (d) in the proximity of radar or other navigational aid equipment, it might impair the performance of the equipment.

Local planning authorities have a duty, under regulation 13(1)(d), to consult the person responsible for the operation of an aerodrome, they should write to the operator of the aerodrome in question; if it has been officially safeguarded, the address of the consultee will be shown on the safeguarding map. In the case of a military aerodrome, the address for consultation is:

The Head of Safeguarding
Defence Estates
Blakemore Drive
Sutton Coldfield
B75 7RL

OTHER PUBLIC SAFETY CONSIDERATIONS

16. The prevention of crime and drug abuse are public safety considerations. Local planning authorities should try and ensure that express consent is not given to advertisements which would block the view of CCTV cameras, or where the illumination from signs would cause glare on the CCTV cameras.

APPENDIX C to Annex to Communities and Local Government Circular 03/2007

Notes for guidance about advertisement appeals

The right to appeal

1. You have a right to appeal against the local planning authority's-
 - (a) refusal of consent for an advertisement;
 - (b) grant of consent for an advertisement subject to a condition with which you are dissatisfied;
 - (c) failure to issue a decision on an application within a specified time (namely 8 weeks from the date the application is formally acknowledged or such longer period you may have agreed in writing with the Council), provided the Council have not given you notice that they have declined to determine your application under the provisions of section 70A of the Town and Country Planning Act 1990 as applied by Regulation 14 and Schedule 4 to the Regulations; or
 - (d) “discontinuance notice” requiring you to remove an advertisement, or stop using an advertisement site, (an appeal must be made before the notice takes effect).

The appeal is made to the Planning Inspectorate acting on behalf of the Secretary of State and the appeal procedure is very similar to the procedure for a planning appeal.

The choice of appeal procedure

2. There is a choice of two appeal procedures and the Planning Inspectorate will co-operate with you, or your agent, in enabling your appeal to be processed and decided in the way you would prefer. The available appeal procedures are:
 - (a) by written representations which you and the local planning authority make, followed by an *unaccompanied* site-inspection of the appeal site;
 - (b) by a hearing of the parties’ oral representations, and an inspection of the appeal site, which may be accompanied if required. A decision will be issued within a few weeks. (Normally not more than 4 weeks.) Please note that, if you opt for a hearing, you may be liable for an award of the planning authority’s appeal costs against you if you are found to have behaved “unreasonably” in the appeal proceedings. Further advice is given in the Circular Awards of Costs Incurred in Planning and Other (Including Compulsory Purchase Order) Proceedings DOE Circular 8/93.

The Secretary of State may occasionally have to insist on a hearing, in order to ensure that all aspects of the appeal are thoroughly and fairly considered. When this happens the Planning Inspectorate will explain why.

3. From the outset of an appeal you should give *precise* grounds of appeal. This enables the local planning authority in their written statement to answer the relevant points and thus avoid unnecessary delays. You will be given the opportunity to respond to their representations.

The address for advertisement appeals and appeal forms

4. All advertisement appeals have to be submitted to the Planning Inspectorate within 8 weeks of the receipt of the local planning authority's decision against which you are appealing. To appeal you should complete the official appeal form. Ask for form PINS PF08 for your appeal. These are specially designed appeal forms. Please read the notes for guidance carefully *before* completing the forms. Form PINS PF08 can be obtained from this address:

The Planning Inspectorate
Customer Support Unit
Room 306, Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

The telephone number is 0117 372 6372 or the e-mail address is enquiries@planning-inspectorate.gsi.gov.uk

6. The appeal forms may also be completed electronically using the Planning Portal. www.planningportal.gov.uk/wps/portal

APPENDIX D to Annex to Communities and Local Government Circular 03/2007

Model format for local planning authority's appeal statement

1. References: the Planning Inspectorate's appeal reference number; the local planning authority's reference numbers, for appeal and application; the address of appeal site; the name of appellant (or agent).
2. Site description: a brief, factual description of the appeal site and its immediate vicinity, drawing attention (if appropriate) to any physical, architectural or other characteristics which are not readily apparent from the site-plan and photographs. Include reference to any designated area (e.g. area of special control of advertisements).
3. Site history: a brief statement of any relevant applications involving the appeal site.
4. Policies and proposals: factual statement of the policies and proposals in the current development plan.
5. Advertisement control policy: a concise statement of the policy guidelines for control over outdoor advertisements which the local planning authority regards as relevant to the appeal site. Section 38(6) of the Town and Country Planning Act 1990 does not apply, consequently local planning authorities cannot refuse an application for express consent merely on policy grounds. They have to demonstrate harm to amenity or public safety.
6. Observations on grounds of appeal: a concise statement of the local planning authority's observations on the appellant's grounds for appeal to the Secretary of State. There is no need to repeat the local planning authority's reasons for refusal of the advertisement application or to provide a detailed history of any previous advertisement applications and appeals, unless they are directly relevant to the current appeal. If it is not already clear from other statements, include a reference to any modification of, or condition on, the display which would make it acceptable to the local planning authority.
7. Enclosures: a list of documentation accompanying the statement.

NB: An indication of those to whom the statement and accompanying documents have been sent is helpful, as is a list of all those consulted about the original application and/or about the appeal.

APPENDIX E to Annex to Communities and Local Government Circular 03/2007

Criteria for deciding applications and appeals involving poster-sites

GENERAL

1. Any application to a local planning authority, or appeal to the Secretary of State, which involves the display of a poster is to be considered on its own merits with regard to the general characteristics of the locality in which it is to be displayed. Although other material factors may be taken into account in determining the application or appeal, the Control of Advertisements Regulations require that powers of control shall only be exercised in:
 - (1) the interests of amenity (which means the visual amenity of the neighbourhood where the poster is to be displayed and where noise is a consideration); and
 - (2) the interests of public safety (which means the safety of people using any form of travel likely to be affected by the poster display; crime prevention and drug abuse are also considerations).
2. In applying the expression “in the interests of amenity” to any particular application or appeal, account should be taken not only of factors which may be detrimental to amenity but also of factors which may be to the advantage of the amenity of a locality, such as adding appropriate colour and interest to a drab area, or screening an eyesore.
3. While they are to have regard to the general characteristics of a locality (including any feature of historic, architectural, cultural or similar interest), and they may disregard existing advertisements in the locality in assessing its general characteristics, local planning authorities should nevertheless seek to ensure consistency in their general approach towards the determination of applications in particular localities; and the Secretary of State should ensure the same approach is taken to appeals.
4. Poster-panels should respect the scale of their surrounding location: when they are displayed on a paved forecourt, or in a pedestrianised area, their dimensions should be in scale with other street furniture and the effect of the display should not be overwhelming upon pedestrians in the area; but when they are displayed on buildings, or as free-standing units alongside the highway, they should be related to the scale of surrounding buildings and have regard to the symmetry or architectural features of their location. Good quality hard or soft landscaping, properly maintained, can significantly enhance the appearance of a poster display and help it to blend with its surroundings.

OPEN COUNTRYSIDE

5. Poster advertising is out of place in the open countryside and should not normally be allowed. There may be temporary exceptions, e.g. agricultural shows and similar events, but the duration of the display should be limited to a suitable period leading up to, and the duration of, the event being advertised.

VILLAGES

6. In villages large-scale poster advertising is normally out of place; but the smaller sizes may be appropriate, depending on the character of the village and the position of the proposed display in relation to surrounding buildings and features.

RESIDENTIAL AREAS

7. Poster advertising is out of place in any predominantly residential locality and should not normally be allowed. If a locality is in a mixed use – with shops or offices interspersed with residential development, or sharing the same premises in former dwelling houses – some poster advertising may be acceptable when it is carefully related to the scale of surrounding buildings and designed and positioned so as not to intrude upon or interrupt existing features or landmarks.

PREDOMINANTLY COMMERCIAL AREAS

(i) General

8. In predominantly commercial surroundings, the scale of the buildings may be sufficiently large to accommodate larger poster displays without any adverse effect upon visual amenity. But the scale of commercial surroundings can vary greatly, even within short distances in the same town; and it is to be expected that decisions on applications or appeals in commercial areas will seek to match the scale of poster displays with the scale of adjacent buildings.
9. In mixed commercial/residential areas much greater care should be taken in the siting of poster advertising than in a wholly commercial area, in precisely the same way as greater care should be taken with the siting of other commercial activities.

(ii) On buildings

10. A poster panel on a building should be in scale with the particular building. It should not cut across any architectural features of the building unless there are exceptional circumstances, e.g. windows of a disused building awaiting redevelopment. Large-scale poster advertising will normally be inappropriate on listed buildings.
11. Poster panels may be acceptable on the flank-walls of buildings, but they should not be unduly dominant, and should be so designed and positioned as to be seen as an integral feature of the building.

12. In determining whether, on grounds of amenity, the display of a poster panel is appropriate on a building, the most important criterion is the overall visual effect of the display upon the entirety of the building and its surroundings. In judging this effect, the actual use of the building may matter less than the purpose for which the building was originally designed and built.

(iii) Free-standing roadside displays

13. Free-standing roadside panels should always be in scale with the buildings on either side and in the surrounding area, in precisely the same way as any other commercial development. Large poster hoardings situated at the back-edge of the pavement, or in other prominent locations, usually have a dominant visual impact upon their surroundings, and they therefore need to be sited with particular care to ensure that their effect on pedestrians is not overwhelming.

CONSERVATION AREAS

14. Poster advertising may be appropriate in the predominantly shopping and business parts of conservation areas, though particular care to ensure that the method of presentation of any posters displayed in a conservation area is compatible with the area's architectural or historic features is essential. In some areas, the smaller sizes of poster panel will be more appropriate to the scale of the buildings. Similar considerations apply in areas which, though not formally designated as conservation areas, nevertheless contain buildings of considerable architectural or historic merit, or where the "group-value" of a number of buildings is outstanding.

OPEN SPACES AND CIVIC BUILDINGS

15. Poster advertising may be appropriate when seen in juxtaposition with parks and open spaces, or with civic buildings, if other forms of commercial activity, e.g. modern shop buildings, are also seen in juxtaposition with those spaces or buildings. However, where any form of commercial activity would detract from the dignity or character of an area, poster advertising would be equally inappropriate.

APPENDIX F to Annex to Communities and Local Government Circular 03/2007

Discontinuance notices

This Appendix offers advice on points which may be helpful to staff in local planning authorities when drafting and serving advertisement discontinuance notices.

What are the statutory provisions for discontinuance notices?

The statutory provision is Regulation 8 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

What advertisements may be discontinued?

Only advertisements displayed, with deemed consent, in accordance with one of the Classes of advertisements in Schedule 3 to the Regulations.

Is it the display of the advertisement or the use of the site for the display of advertisements which is to be discontinued?

You will need to think very carefully and decide exactly what you wish to achieve before you begin to draft the discontinuance notice. The following examples should help.

Example 1

A shop, perhaps in an historic Conservation Area, erects a bright “day-glo” orange fascia sign, which has deemed consent since it complies with all the requirements of Class 5 in Schedule 3. It is nonetheless considered that the colour of the sign makes it unacceptable in this historic area, although a replacement, less gaudy, fascia sign would be wholly acceptable. In this case, you would be seeking to discontinue the display of the sign, but not to take away the future “deemed consent” rights of the shopkeeper to erect a replacement fascia sign. An example of a discontinuance notice suitable for this purpose is attached at Appendix F1.

Example 2

A long-standing poster panel is displayed on land which is now surrounded by residential development; the poster display has “deemed consent” since it complies with all the requirements of Class 13 in Schedule 3. It is now considered out of place in its residential surroundings. In this case, you would be seeking to discontinue the use of the site for the display of advertisements, since you would wish to extinguish the “deemed consent” rights to use the site generally for advertising purposes. An example of a discontinuance notice suitable for this purpose is attached at Appendix F2.

Example 3

A poster panel is displayed on the flank wall of a public house; it has “deemed consent” since it complies with all the requirements of Class 5 in Schedule 3. The poster is considered to be out of scale and character with the building. In this case, you would be seeking to discontinue the use of part of the site for the display of advertisements,

since you would not wish to remove the deemed consent rights to display other signs elsewhere on the premises. An example of a discontinuance notice suitable for this purpose is attached at Appendix F3.

How much should be said in the notice's Statement of Reasons?

The Regulations require a full statement of the reasons for taking discontinuance action. The reasons given should be specific to the site and leave the advertiser in no doubt about exactly what makes the display unacceptable to the Council. If the notice specifies a particular advertisement(s), the statement should specifically address that particular advertisement(s). If the notice refers to the use of a site, the statement must explain why the use of the site as a whole for the display of advertisements should cease.

On whom must the discontinuance notice be served?

The notice must be served on the advertiser and on the owner and occupier of the site on which the advertisement is displayed. The notice may be served on any other person displaying the advertisement (e.g. the person whose products are given publicity by the advertisement).

What is the period for the notice to take effect?

The period for the notice to take effect must not be less than 8 weeks after the date on which it is served. This means 8 weeks after the date it is received by the person on whom it is served, not 8 weeks after the date it is posted.

How long must be allowed for the display to be discontinued after the notice has taken effect?

There is no statutory requirement, but it must be a reasonable period of time depending on the nature of any works which will need to be undertaken for the display to cease.

APPENDIX F1

Important – this communication affects your property

Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991)

Town and Country Planning (Control of Advertisements) (England) Regulations 2007

Discontinuance Notice

To: *The advertiser and owner and occupier of the premises/site

1. You are displaying the advertisement(s) described in the First Schedule below for which consent is deemed to be granted under the 2007 Regulations.

2. The + ANYWHERE DISTRICT COUNCIL

(“the Council”) as local planning authority, for the reasons stated in the Second Schedule below, considers it necessary to require the display of the advertisement(s) to be discontinued to remedy [a substantial injury to the amenity of the locality] [and/or a danger to members of the public].

3. Acting under the powers conferred by Regulation 8 of the 2007 Regulations, the Council REQUIRES YOU to DISCONTINUE [the display of the advertisement(s)] within a period of after the date on which this notice takes effect.

4. This notice shall take effect, subject to the provisions of Regulation 8(5) and (6) of the 2007 Regulations, at the end of a period of [+ +] after the service of this notice on you.

Dated

Signed

**

The officer appointed for this purpose

FIRST SCHEDULE

(Description and location of advertisements to which this notice relates)

The day-glo orange fascia sign, measuring 4m x 1m, displayed at 10 High Street, Anywheretown.

SECOND SCHEDULE

(Full statement of the reasons for taking discontinuance action)

The fascia sign, due to its gaudy colours, is considered to cause a substantial injury to the amenity of this historic Conservation Area because

Delete any words in square brackets which do not apply.

- * This notice must be served on the advertiser and on the owner and occupier of the site on which the advertisement is displayed. The local planning authority may also, if it thinks fit, serve notice on any other person displaying the advertisement.
- + Insert name and address of local planning authority.
- ** Insert title of proper officer.
- ++ Insert a period of not less than 8 weeks.

NOTES

Appeals

Under Regulation 17 of the Town and Country Planning (Control of Advertisements) Regulations 2007 any person served with a discontinuance notice may appeal to the Secretary of State at any time before the discontinuance notice takes effect.

Subject to Regulation 8(6), notice of appeal in writing must be given to the Secretary of State within eight weeks of receipt of this notice, or within such longer period as the Secretary of State may allow, and the person appealing must send with the notice of appeal a copy of each of the following documents:

- (i) the discontinuance notice;
- (ii) any notice of variation;
- (iii) any relevant correspondence with the authority.

On the determination of the appeal the Secretary of State is required to give such directions as may be necessary for giving effect to his determination, including, where appropriate, directions for quashing the discontinuance notice or for varying its terms.

The decision of the Secretary of State on an appeal is final.

Withdrawal or Variation of Discontinuance Notice

Under Regulation 8(6), the local planning authority may, by notice served on the advertiser, withdraw a discontinuance notice at any time before it takes effect, or may, where no appeal to the Secretary of State is pending, from time to time vary a discontinuance notice by extending the period at the end of which the notice is to take effect.

APPENDIX F2

Important – this communication affects your property

Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991)

Town and Country Planning (Control of Advertisements) (England) Regulations 2007

Discontinuance Notice

To: *The advertiser and owner and occupier of the premises/site

1. You are using for the display of advertisement(s) the site described in the First Schedule below for which consent is deemed to be granted under the 2007 Regulations.

2. The + ANYWHERE DISTRICT COUNCIL

(“the Council”) as local planning authority, for the reasons stated in the Second Schedule below, considers it necessary to require the use of the site for the display of advertisement(s) to be discontinued to remedy [a substantial injury to the amenity of the locality] [and/or a danger to members of the public].

3. Acting under the powers conferred by Regulation 8 of the 2007 Regulations, the Council REQUIRES YOU to DISCONTINUE the use of the site for the display of advertisement(s) within a period of _____ after the date on which this notice takes effect.

4. This notice shall take effect, subject to the provisions of Regulation 8(5) and (6) of the 2007 Regulations, at the end of a period of [+ +] after the service of this notice on you.

Dated _____

Signed _____

**

The officer appointed for this purpose

FIRST SCHEDULE

(Description and location of advertisements to which this notice relates)

All that land at the junction of High Street and Penny Lane shown edged red on the plan attached to this notice.

SECOND SCHEDULE

(Full statement of the reasons for taking discontinuance action)

The continued use of the land for the display of advertisements is considered to cause a substantial injury to the amenity of the surrounding residential area because

Delete any words in square brackets which do not apply.

- * This notice must be served on the advertiser and on the owner and occupier of the site on which the advertisement is displayed. The local planning authority may also, if it thinks fit, serve notice on any other person displaying the advertisement.
- + Insert name and address of local planning authority.
- ** Insert title of proper officer.
- ++ Insert a period of not less than 8 weeks.

NOTES

Appeals

Under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 any person served with a discontinuance notice may appeal to the Secretary of State at any time before the discontinuance notice takes effect.

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- (i) the discontinuance notice;
- (ii) any notice of variation;
- (iii) any relevant correspondence with the authority.

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Under Regulation 8(6), the local planning authority may, by notice served on the advertiser, withdraw a discontinuance notice at any time before it takes effect, or may, where no appeal to the Secretary of State is pending, from time to time vary a discontinuance notice by extending the period at the end of which the notice is to take effect.

APPENDIX F3

Important – this communication affects your property

Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991)

Town and Country Planning (Control of Advertisements) (England) Regulations 2007

Discontinuance Notice

To: *The advertiser and owner and occupier of the premises/site

1. You are using for the display of advertisement(s) the site described in the First Schedule below for which consent is deemed to be granted under the 2007 Regulations.

2. The + ANYWHERE DISTRICT COUNCIL

(“the Council”) as local planning authority, for the reasons stated in the Second Schedule below, considers it necessary to require the use of the site for the display of advertisement(s) to be discontinued to remedy [a substantial injury to the amenity of the locality] [and/or a danger to members of the public].

3. Acting under the powers conferred by Regulation 8 of the 2007 Regulations, the Council REQUIRES YOU to DISCONTINUE the use of the site for the display of advertisement(s) within a period of after the date on which this notice takes effect.

4. This notice shall take effect, subject to the provisions of Regulation 8(5) and (6) of the 2007 Regulations, at the end of a period of [+ +] after the service of this notice on you.

Dated

Signed

**

The officer appointed for this purpose

FIRST SCHEDULE

(Description and location of advertisements to which this notice relates)

The west-facing flank wall of the Red Lion Public House, Anywheretown.

SECOND SCHEDULE

(Full statement of the reasons for taking discontinuance action)

The use of the west-facing flank wall of the public house for the display of advertisements is considered to cause a substantial injury to the amenity of the locality because the panel presently displayed is considerably out of scale with the premises, spoiling their appearance. The wall has a wide range of visibility, encompassing many dwellings, and it is considered that its uncontrolled use for the display of advertisements deemed to be granted under the Regulations should cease in the interests of the visual and residential amenity of the locality.

Delete any words in square brackets which do not apply.

- * This notice must be served on the advertiser and on the owner and occupier of the site on which the advertisement is displayed. The local planning authority may also, if it thinks fit, serve notice on any other person displaying the advertisement.
- + Insert name and address of local planning authority.
- ** Insert title of proper officer.
- ++ Insert a period of not less than 8 weeks.

NOTES

Appeals

Under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 any person served with a discontinuance notice may appeal to the Secretary of State at any time before the discontinuance notice takes effect.

Subject to Regulation 8(6), notice of appeal in writing must be given to the Secretary of State within eight weeks of receipt of this notice, or within such longer period as the Secretary of State may allow, and the person appealing must send with the notice of appeal a copy of each of the following documents:

- (i) the discontinuance notice;
- (ii) any notice of variation;
- (iii) any relevant correspondence with the authority.

On the determination of the appeal the Secretary of State is required to give such directions as may be necessary for giving effect to his determination, including, where appropriate, directions for quashing the discontinuance notice or for varying its terms.

The decision of the Secretary of State on an appeal is final.

Withdrawal or Variation of Discontinuance Notice

Under Regulation 8(6), the local planning authority may, by notice served on the advertiser, withdraw a discontinuance notice at any time before it takes effect, or may, where no appeal to the Secretary of State is pending, from time to time vary a discontinuance notice by extending the period at the end of which the notice is to take effect.

APPENDIX G to Annex to Communities and Local Government Circular 03/2007

The Town and Country Planning (Control of Advertisements) (England) Direction 2007

The Secretary of State for Communities and Local Government in exercise of the powers conferred on her by regulation 25 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 gives the following direction:

1. In this direction-

‘the 2007 Regulations’ means the Town and Country Planning (Control of Advertisements) (England) Regulations 2007;

‘local planning authority’ has the meaning assigned to it by regulation 2(1) of the 2007 Regulations;

‘the Secretary of State’ means the Secretary of State for Communities and Local Government.

2. Subject to paragraph 3, and without prejudice to any requirements of the Secretary of State under section 78(4) of the 1990 Act, every local planning authority shall, within 21 days from the date on which they are notified by an appellant of the making of an appeal to the Secretary of State against the refusal of express consent (the date on which the authority receive a completed copy of form 14075B) send to the Secretary of State:
 - (a) a statement containing the authority’s response to each of the grounds of appeal;
 - (b) a set of such photographs of the appeal site and its surroundings as will, in their opinion, assist the Secretary of State in considering, in relation to the appeal, the interests of amenity or public safety; and
 - (c) a plan, drawn to a specified scale, showing the location and boundary of the appeal site and the position from which each of the photographs was taken.
3. The requirements imposed by paragraph 2(b) and (c) of this direction shall not apply where the local planning authority believes the Secretary of State to be in possession of photographs and plans which are, in its opinion, sufficient to illustrate the appeal site and its surroundings and the position from which the photographs were taken.
4. For appeals made to the Secretary of State against a discontinuance notice every local planning authority shall send to the Secretary of State, within 21 days of the date of any request, any documents referred to in paragraph 2(a), (b) and (c) that he may specify.

5. Subject to paragraph 6, for appeals made to the Secretary of State against the refusal of express consent or against a discontinuance notice which are proceeding by way of oral representations, every local planning authority shall send to the Secretary of State and the appellant any documents referred to in paragraph 2(a), (b) and (c) that the Secretary of State may specify. The documents must be sent at such time that they will ensure that they are received by the Secretary of State no later than 28 days before the agreed hearing date.
6. Paragraph 5 shall not apply to any appeal to which rule 6 of the Town and Country Planning (Inquiries Procedure) Rules 1974 applies.
7. The Town and Country Planning (Control of Advertisements) Direction 1992 is cancelled.
8. This direction may be cited as the Town and Country Planning (Control of Advertisements) (England) Direction 2007.

Signed by authority of the Secretary of State 29 March 2007

MICHELLE BANKS
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Department for Communities and Local Government

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