Communities and Local Government

Outdoor advertisements and signs: a guide for advertisers

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a guide for advertisers

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Department for Communities and Local Government

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Outdoor advertisements and signs: a guide for advertisers

Advertisement control

This booklet, prepared by Communities and Local Government, aims to explain to everyone who wants to display an outdoor advertisement how the system of advertisement control works in England.

Because you may find the system quite complicated at first, the booklet is arranged in separate sections and there are numerous illustrations which may show you how the system affects the type of advertisement you want to display.

The main sections in the booklet explain:

- How the advertisement control system works
- What advertisements are normally permitted
- What advertisements need specific permission and how to obtain it
- How planning authorities may control the display of advertisements in some special cases is explained in the Appendix.

This booklet is intended only to give advice. It does not state the law.

How the Advertisement Control System Works

Regulations for England

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

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

Who controls outdoor advertisements?

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

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

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

What is an 'advertisement'?

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

- posters and notices
- placards and boards
- fascia signs and projecting signs
- pole signs and canopy signs
- models and devices
- advance signs and directional signs
- estate agents' boards
- captive balloon advertising (not balloons in flight)
- flag advertisements
- price markers and price displays

- traffic signs
- town and village name-signs

Memorials and railway signals are not regarded as advertisements

Three different groups of outdoor advertisement

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

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

Three areas where special rules apply

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

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

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

The 'standard conditions'

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

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

Advertisements Which are Normally Permitted

Conditions for display without application

An outdoor advertisement is permitted for display without the planning authority's specific consent if:

- the effect of the rules is to exclude it from direct control; or
- it comes within the provisions of one of the 14 classes of deemed consent specified in the rules.

If your advertisement is not permitted in either of these ways, you must first obtain the planning authority's consent before you display it.

The description of advertisements which follows may not include all the conditions and limitations which apply to a particular class, and you are advised to consult the Regulations for all these details.

Advertisements which are excluded from direct control

There are 9 different classes of advertisement which are excluded from the direct control of the planning authority provided certain conditions are fulfilled. These categories are:

1. Advertisements displayed on enclosed land. These would incude advertisements inside a railway station forecourt, or inside a bus station or sports stadium or shopping mall (see illustrations 1 and 2↓↗).

1

2

2. Advertisements displayed on or in any vehicle or vessel which is normally moving (see illustrations 3 and 4↓↘).

3

4

3. Advertisements which are an integral part of a building's fabric (see illustration 5↓).
4. Advertisements in the form of price tickets or markers, trade-names on branded goods, or displayed on petrol pumps or vending machines. These advertisements must not be illuminated, nor exceed 0.1 square metres in area. Examples are shown in illustrations 6 and 7.↙↓
5. Advertisements relating specifically to a pending Parliamentary, European Parliamentary, or local government election or a referendum. These advertisements must not be displayed more than 14 days after the close of the poll.
6. Advertisements required by any Parliamentary Order, or any enactment, to be displayed.
7. Traffic signs. Any traffic sign (as defined in section 64(1) of the Road Traffic Regulation Act 1984).
8. A national flag of any country, the flag of the European Union, the Commonwealth, the United Nations, English County flags and saints' flags associated with a particular county. Any national flag may be flown, so long as it does not have anything added to the design of the flag or any advertising material added to the flagstaff.

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8

9. Advertisements displayed inside a building. These advertisements must not be illuminated or displayed within one metre of any window or other external opening through which they can be seen from outside the building (see illustrations 8 and 9↑↓).

9

Classes of advertisement benefiting from deemed consent

The rules enable certain 'specified classes' of advertisement to be displayed without application being made to the planning authority. There are 14 such classes of outdoor advertisement, each with its own particular conditions. So the practical effect is that the number of advertisements in that class, their size and duration of display, are limited for each deemed consent. There are also stricter rules for the display of deemed consent advertisements in any Area of Special Control of Advertisements. **Provided that the particular advertisement you propose to display conforms entirely to all the relevant provisions of its own class**, you do not need the planning authority's consent to display it. If you are in any doubt whether your advertisement benefits from deemed consent, you would be well advised to consult the planning authority before you display it.

Class 1 : 'functional advertisements' by public bodies

Advertisements in Class 1 are those which are needed by public bodies (such as government departments and local authorities, the public utilities and public transport operators) to give information or directions about the services they provide. These would include:

- a notice-board at a municipal swimming pool
- a bus or rail timetable
- a warning notice at an electricity sub-station
- the display of bye-laws for a recreation ground or common land.

Two examples of advertisements in Class 1 are shown in illustrations 10 and 11.↙↓

10

11

Advertisements must not exceed 1.55 square metres in area and a reasonable degree of illumination is allowed to enable the information or directions to be read in hours of darkness.

A local planning authority may display advertisements in their own administrative area.

Class 2: miscellaneous advertisements on any premises

Class 2 gives consent for a wide variety of small notices and signs to be displayed on the premises or buildings to which the notice or sign relates. Class 2 is divided into three separate categories, (A), (B) and (C), each with its own provisions for deemed consent.

Class 2(A) permits notices or signs to be displayed on buildings or land as a means of identification, direction or warning. These would include:

- the street number or name of a dwelling-house
- a field-gate sign saying '*Please shut the gate*'
- a warning notice saying '*Beware of the dog*'
- a private sign saying '*No parking please*'.

Advertisements in Class 2(A) must not exceed 0.3 of a square metre in area. Illumination is not allowed. Two examples of advertisements in this area are shown in illustrations 12 and 13.

12

13

Class 2(B) permits notices or signs to be displayed on any premises for the purpose of advertising the fact that a person, partnership or company is carrying on a profession, business or trade at those premises. These would include:

- a brass plate outside a doctor's surgery
- a notice-board displaying the names of individuals in a partnership
- the name of a company operating from the premises.

An advertisement in Class 2(B) must not exceed 0.3 of a square metre in area, but if there is more than one entrance to the premises on different road frontages, two advertisements of 0.3 of a square metre each may be displayed (on a separate frontage), as in illustrations 14 and 15.↙↓

14

15

16

Class 2(C) permits notices or signs which relate to:

- any religious, educational, cultural, recreational, medical or similar institution; or
- any hotel, inn or public house, block of flats, club, boarding-house or hostel;

provided that the advertisement is displayed at the premises and does not exceed 1.2 square metres in area. If there is more than one entrance to the premises on different road frontages, two advertisements of 1.2 square metres each may be displayed (each on a separate frontage). Two examples of advertisements in this class are shown in illustrations 16 and 17.↑↓

17

Any advertisement in Class 2B and 2C may be illuminated, with deemed consent, **if the illumination is intended to indicate that medical or similar services or supplies are available at the premises**. But no letters, figures, symbols or similar features included in the advertisement in Class 2 may be over 0.75 of a metre in height, or 0.3 of a metre in height if the premises are in any Area of Special Control of Advertisements.

Class 3: Temporary Advertisements

Class 3 gives consent for a wide variety of notices and signs which are usually displayed to publicise a forthcoming event, or to advertise a short-term use of the advertisement site. Class 3 is divided into six separate categories – (A), (B), (C), (D), (E) and (F) – each with its own provisions for deemed consent.

Class 3(A) permits boards to be displayed by such firms as estate agents, chartered surveyors, auctioneers and valuers, advertising that land or premises are for sale or to let. The advertisement board for each sale or letting must not exceed, if the sale or letting is for agricultural, industrial or commercial use or development for such use, 2 square metres; but, if two boards are joined together to form a single advertisement, a *total* surface area of 2.3 square metres is permitted. If the sale or letting is for residential use or development, the advertisement board must not exceed 0.5 of a square metre, or a total area of 0.6 of a square metre for two joined boards. No advertisement board is allowed to extend outwards from the wall of a building by more than 1 metre. In each case only one board may be displayed on premises and this must be removed not later than 14 days after completion of the sale or granting of the tenancy. Two examples are shown in illustrations 18 and 19.↙↓

18

19

Class 3(B) permits advertisements to be displayed announcing that there is to be a sale of goods or livestock on land or premises which are not normally used for commercial purposes. These would include:

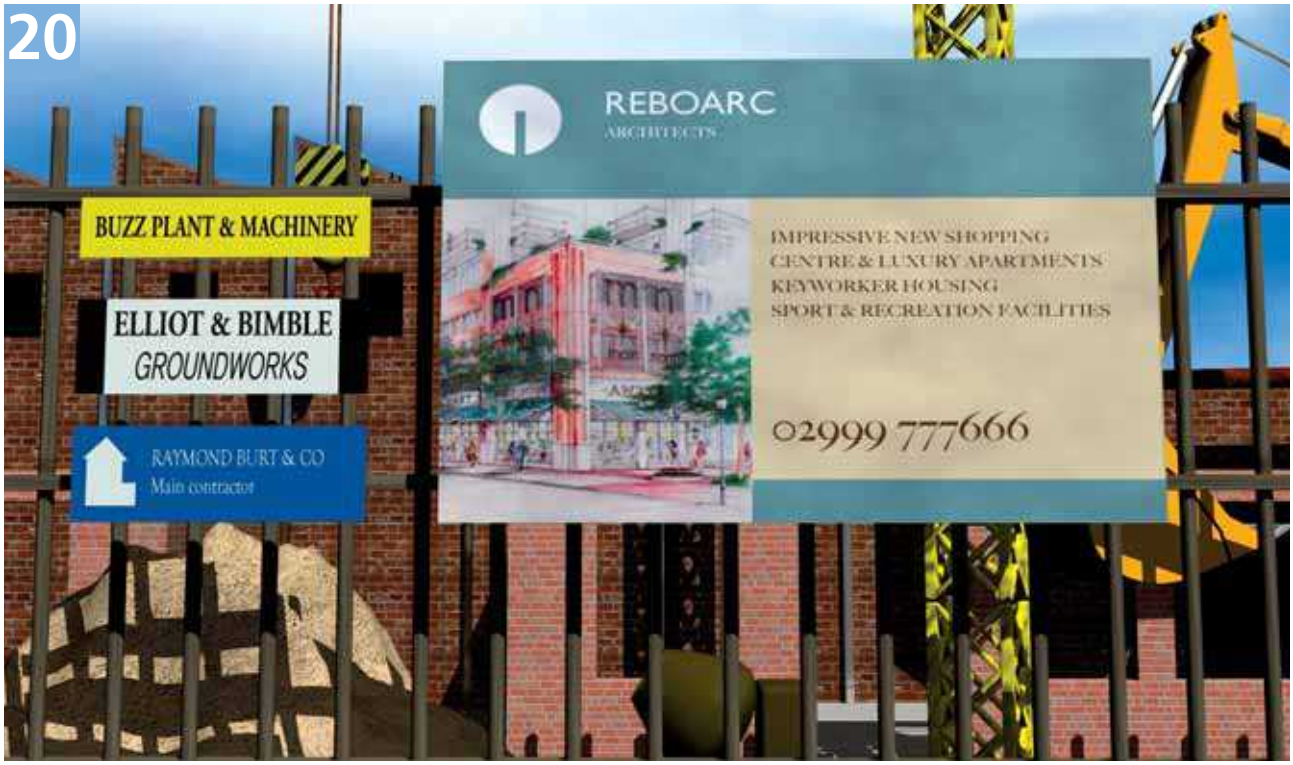
- an auction sale of house-contents at the house
- a sale of livestock on farm premises.

The advertisement board or notice must not exceed 1.2 square metres at the place where the advertised sale is to be held.

Class 3(C) permits firms or individuals who are carrying out building, engineering or construction work to advertise the fact at the site. One firm or individual may display their own advertisement board, provided it does not exceed 2 square metres; but if all those engaged on the contract rely on a single advertisement board, it can have a total area of 2 square metres, plus a further 0.4 of a 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 to enable the name to be displayed. When this type of advertisement board is more than 10 metres away from a highway, it can have a total area of 3 square metres, plus a further 0.6 of a square metre for each additional firm or person mentioned on it. If the board is already being displayed, so that it is impracticable or inconvenient to add another name to it, any other firm, contractor or individual 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. Class 3(C) permits this type of advertisement board only during the time when the building, engineering or construction works are actually taking place on site. An example of Class 3(C) is shown in illustration 20.

20



Class 3(D) permits temporary notices or signs which are intended to advertise any local event being held for charitable purposes, which may be religious, educational, cultural, political, social or recreational, but not for any commercial purpose. This permission would include an advertisement for:

- a church bazaar
- a fete for a parent-teacher association
- a sponsored marathon in aid of charity
- an amateur sports event, but not any sporting event organised for commercial purposes.

The advertisement permitted by Class 3(D) must not exceed 0.6 of a square metre.

Class 3(E) permits temporary notices or signs advertising that a demonstration of agricultural methods or processes is taking place on the land where they are being displayed. The total area of all such notices must not exceed 1.2 square metres in aggregate and no individual notice is to exceed 0.4 of a square metre. They may be displayed only for a period of six months in any year.

Class 3(F) permits temporary notices or signs announcing the visit of a travelling circus or fair. These advertisements must not be displayed more than 14 days before the opening of the circus or fair and must be removed within seven days afterwards. The local planning authority must be told 14 days beforehand of the sites of the notice. The notice or sign must not exceed 0.6 of a square metre.

Advertisements permitted by Class 3 **must not:**

- have any letters, figures, symbols or similar features of the design over 0.75 of a metre in height, or 0.3 of a metre in height if they are in any Area of Special Control;
- have the highest part of the advertisement at more than 4.6 metres above ground-level, or 3.6 metres in any Area of Special Control (except for estate agents' boards, in Class 3(A), advertising a sale or letting of premises situated in a building above these specified height limits); or
- be illuminated in any circumstances.

And, if a Class 3 advertisement relates to a sale or event, **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.**

Class 4: illuminated advertisements

Class 4 permits the display of advertisements with either internally illuminated letters or characters on an unilluminated background or lit by 'halo' illumination.

An advertisement permitted by Class 4:

- **must not** have any intermittent light source, moving feature, animation or exposed cold cathode tubing;

- **must not** have more than one such fascia panel and one projecting at right angles;
- in the case of a shop, **may only** be displayed on the wall with a shop window;
- **must be at least** 2.5 metres high at its lowest point;
- if a fascia panel, **must not** extend more than 0.25 of a metre from the wall;
- if a projecting sign, **must not** exceed 0.25 of a metre between the two sides.

Class 4 does not extend to any premises in a Conservation Area, Area of Outstanding Natural Beauty, National Park, the Broads, or Area of Special Control of Advertisements.

Class 4(A) 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. A projecting sign on these premises must not exceed 1 square metre, project more than 1 metre from the wall or be more than 1.5 metres high. An example is shown in illustration 21.

21

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

Maximum levels of luminance are detailed in the Regulations.

22

Class 5: advertisements on business premises

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

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

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

23

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

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

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

- have any letters, figures, symbols or similar features in the design over 0.75 of a metre in height, or 0.3 of a metre in height if they are in any Area of Special Control of Advertisements;
- have its highest part at more than 4.6 metres above ground-level, or 3.6 metres in any Area of Special Control of Advertisements;
- have its highest part above the level of the bottom of the first-floor window in the wall where the advertisement is;
- be illuminated, unless the illumination is intended to indicate that medical or similar services or supplies are available at the premises; and
- if the premises are in any Area of Special Control of Advertisements, exceed in area 10 per cent of the external face of the building, measured up to a height of 3.6 metres above ground-level.

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

Class 6: advertisements on forecourts of business premises

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

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

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

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

24

25

Class 7: flag advertisements

Class 7 permits some flag advertisements. (This deemed consent has no effect upon any display of the national flag of any country – see number 8 on page 8). **Class 7(A)** permits an advertisement to be displayed as a flag, on one flagstaff, fixed upright on the roof of a building. There is no height limit for this consent, but the flag itself 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. So flags are not permitted to advertise products, unless they have the planning authority's specific consent.

Class 7(B) permits the display of advertising flags at housebuilding sites and where new houses remain available for sale, **except in a National Park, Area of Outstanding Natural Beauty, Conservation Area, the Broads or Area of Special Control of Advertisements**. The rules for Class 7(B) are:

- each flag must be on a single vertical flagstaff;
- a site where 10 houses or less are built may have one flag, 11 to 100 houses may have two flags, and over 100 houses may have three flags;
- the flagstaffs must not exceed 4.6 metres high;
- the flags must not exceed 2 square metres in area;
- the flags and flagstaffs must be removed at the end of one year after construction of the last house is completed.

There are special arrangements for sites being developed in phases or by more than one housebuilder. An example is shown in illustration 26.↓

26

Class 8: advertisements on hoardings around temporary construction sites

Class 8 permits the display, **for three years only**, of poster-hoardings which are being used to screen building or construction sites while the work is being carried out on site. 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. But the benefit of Class 8 is **not available in any National Park, Area of Outstanding Natural Beauty, Conservation Area, the Broads, or Area of Special Control of Advertisements**. Outside those designated and defined areas, this consent is limited to land being developed for commercial, industrial or business use, and is *not* available for any residential development.

Advertisements permitted by Class 8 **must not:**

- be displayed more than three months before the date on which the building or construction works actually start;
- be more than 38 square metres in area
- be more than 4.6 metres above ground level
- be displayed for more than three years.

Additionally, the advertiser must send written notification to the planning authority of his intention to display such an advertisement at least 14 days before the display starts, and provide a copy of the detailed planning permission for the site.

These advertisements may be illuminated in a manner reasonably required to fulfil the purpose of the advertisement. An example is shown in illustration 27.↓

27

Class 9: advertisements displayed on purpose-designed highway structures

Class 9 enables the smallest standard size of poster-panel (known as four-sheet) to be displayed on structures or objects placed on highway land with the local council's approval, under the Highways Act 1980 (section 115E). The rules for Class 9 are:

- the structure, such as a bus shelter or information kiosk, must be purpose-designed for displaying this size of poster-panel;
- the poster-panel must not exceed 2.16 square metres in area; and
- no illumination is permitted. An example is shown in illustration 28.↓

28

Class 10: properly authorised signs for approved Neighbourhood Watch and similar schemes

Class 10 enables outdoor signs for a closed circuit television surveillance scheme or a Neighbourhood Watch and other Watch schemes, jointly established by a local Watch committee and the police authority, to be displayed on, or near, highway land, saying that a Watch scheme is in operation in the area. This is also intended to include Home Watch, Crime Watch, Farm Watch and Industrial Watch schemes set up jointly with the police authority. The rules for Class 10 are:

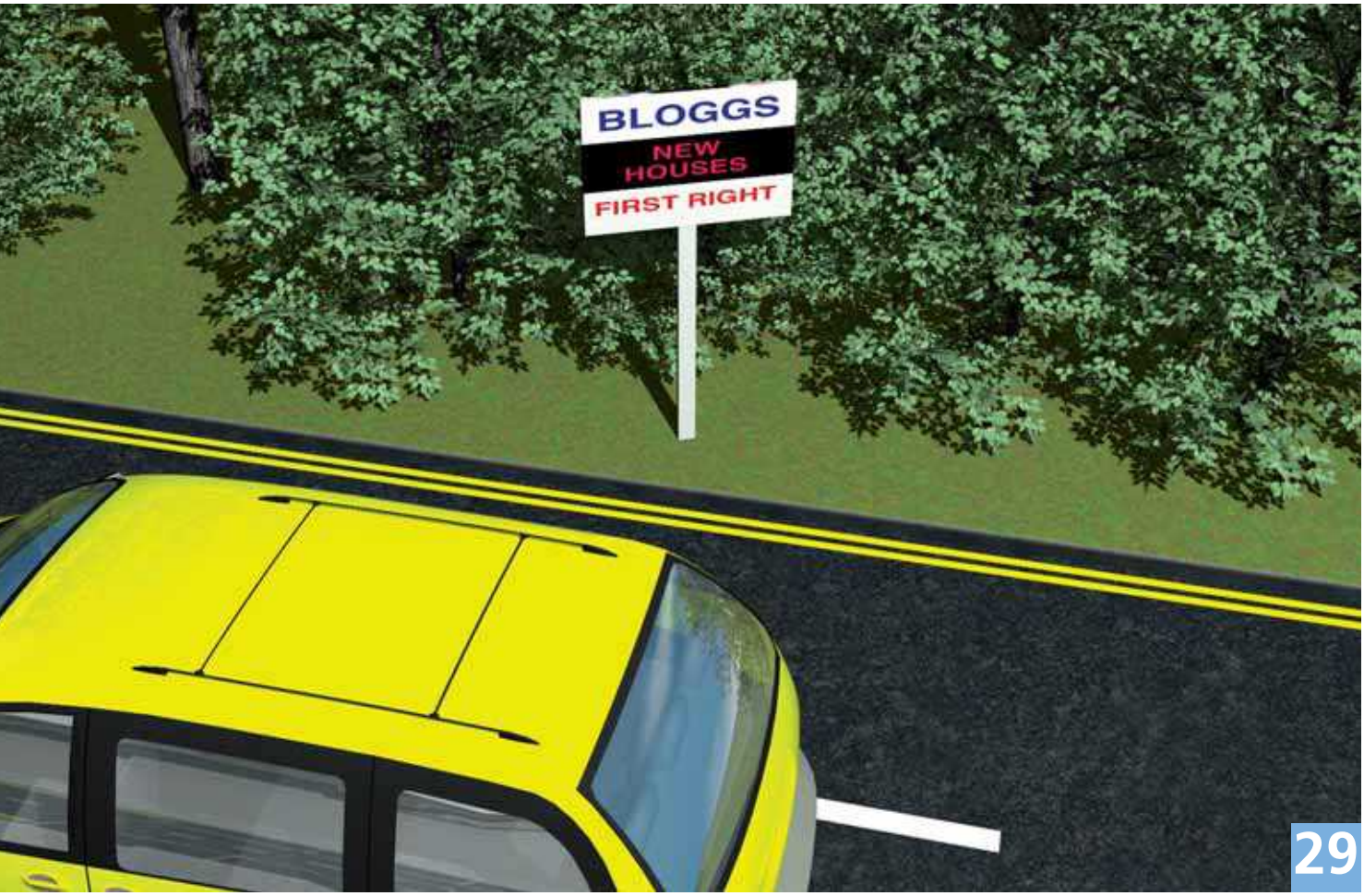
- signs must not exceed 0.2 of a square metre in area;
- no sign may exceed 3.6 metres above ground level;
- for signs on highway land, the highway authority's permission *must* first be obtained;
- 14 days before any sign is put up, the local planning authority must be told where it is to be displayed and assured that it is properly authorised by the police and (if necessary) the highway authority; and
- if the police or highway authority withdraw their approval, or the Watch scheme ceases to operate, the signs must be removed within 14 days.

Class 11: directional advertisements

Class 11 permits housebuilding firms to put up temporary directional signs, telling potential housebuyers and other visitors how to reach a site where new residential development is taking place. The rules for Class 11 are:

- signs **must not** exceed 0.15 of a square metre in area;
- **no sign may** exceed 4.6 metres above ground level, or 3.6 metres in an Area of Special Control of Advertisements;
- any lettering or other information on the sign **must not be less** than 40 millimetres or more than 250 millimetres high;
- retroflective material and illumination **must not** be used;
- the sign **must not** look like an official traffic sign;
- the sign **must** be near to, but not on, highway land and not within 50 metres of an official traffic sign facing in the same direction;
- **no sign may** be more than two miles from the main entrance to the housebuilding site;
- 14 days before any sign is put up, the local planning authority **must be** told where it is to be displayed and from what date; and
- **no sign may** continue to be displayed after development of the housebuilding site is completed; or for more than two years.

An example is shown in illustration 29.↓



29

Class 12: advertisements displayed inside buildings

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

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

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

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

Class 14: advertisements displayed after the expiry of express consent

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

Class 15: Captive balloons advertisements

One balloon advertisement may be displayed if it is:

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

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

Class 16: advertisements on telephone kiosks

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

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

Advertisements Which Need Specific Permission, and How to Obtain it

Express consent

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

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

How to obtain advertisement consent

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

How your application for consent is decided

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

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

The terms 'amenity' and 'public safety' are not defined in detail in the advertisement control rules, although advice on these terms is given in

Circular 03/2007 and *PPG 19*. Each planning authority (and the Secretary of State on appeal) must interpret what is meant by these expressions as they apply in particular cases. In practice, 'amenity' is usually understood to mean the effect upon visual and aural amenity in the immediate neighbourhood of displaying the advertisement, or using an advertisement site, where passers-by, or people living there, will be aware of the advertisement. So in assessing amenity, the planning authority will always consider the local characteristics of the neighbourhood. For example, if your advertisement will be displayed in a locality where there are important scenic, historic, architectural or cultural features, the planning authority will consider whether it is in scale and in keeping with these features. This might mean that the planning authority would refuse consent for a large poster-hoarding which would visually dominate a group of 'listed' buildings. But where there are large buildings and main highways, for example in an industrial or commercial area of a major city, the planning authority may grant consent for large advertisements which would not adversely affect visual amenity in the neighbourhood of the site. Two examples are shown in illustrations 30 and 31.↓

30 consent refused

31 consent granted

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

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

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

What happens after the authority's decision?

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

What happens if the planning authority refuse consent?

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

same site which has been refused by the Secretary of State on appeal within the preceding two years.

How and when you can appeal to the Secretary of State

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

Department for Communities and Local Government

Customer Support Unit
Room 315, Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
Tel: 0117 372 6372

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

Illegal advertisements

Anyone who displays an advertisement, or uses an advertisement site, or knowingly permits someone else to do so, without the consent required for it is acting illegally. It is then immediately open to the planning authority to bring a prosecution in the Magistrates' Court for an offence under section 224 of the Town and Country Planning Act 1990. But, unless an offence is especially flagrant or repeated, the planning authority may not initially consider it necessary to prosecute for an advertisement offence. Instead, they may invite the advertiser to apply for the consent they believe he needs, and, if consent is refused, there will be a right of appeal to the Secretary of State.

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

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

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

Appendix: Special Controls

Power to take away the benefit of deemed consent

The rules enable the planning authority to invite the Secretary of State to order that, in any particular area, or on any particular site, an advertisement which would normally benefit from deemed consent is not to be displayed without the planning authority's specific consent. Before making any such order, the Secretary of State must ensure that the planning authority's representations to her are publicised, so that local people and interested organisations may have an opportunity to make whatever representations they wish about the merits of the proposed withdrawal of deemed consent. She must take account of any objections to the order; and, if she does decide to make it she must give her reasons in writing for doing so.

Because the withdrawal of a deemed consent may adversely affect people's livelihoods, it will be confined to those few circumstances where it is clear to the Secretary of State that one or more of the deemed consent provisions have had such adverse effects on the environment that there is no prospect of an improvement in the quality of advertising in the locality unless the planning authority are enabled to control that particular type of advertising. Once such an order has been made by the Secretary of State, the class of deemed consent to which the order relates is no longer available to advertisers after a specified date.

Power to take 'discontinuance action'

The rules enable the planning authority to take discontinuance action against any advertisement, or the use of any advertisement site, which normally has the benefit of any of the categories of deemed consent. Action to serve a 'discontinuance notice' may be taken only if the planning authority are satisfied it is necessary to do so to remedy a substantial injury to the amenity of the locality or a danger to members of the public.

When the planning authority decide to take discontinuance action they must ensure that a copy of their discontinuance notice reaches the advertiser and the owner and occupier of the site on which the advertisement in question is displayed. The discontinuance notice must state:

- the advertisement or advertisement site whose display or use is to stop;
- the period within which the display or use must stop;
- the reasons why the planning authority consider that the display or use should stop; and
- the effective date of the notice (not less than eight weeks after it is served).

Anyone who receives a discontinuance notice has a right of appeal against it to the Secretary of State before the specified date on which it is to take effect. The Secretary of State then considers the appeal on its own merits in the usual way. If the appeal succeeds, the discontinuance notice does not take effect; if the appeal fails, the display of advertisements, or the use of the advertisement site, must stop on the date specified in the decision on the appeal.

What is an Area of Special Control of Advertisements?

An Area of Special Control of Advertisements is an area specifically defined by the planning authority because they consider that its scenic, historical, architectural or cultural features are so significant that a stricter degree of advertisement control is justified in order to conserve visual amenity within that area. Legislation requires that Areas of Special Control are to be:

- rural areas; or
- other areas which appear to the Secretary of State to require 'special protection on grounds of amenity'.

Before any Area of Special Control defined by a local planning authority can be effective, the Secretary of State must approve it. This approval procedure ensures that nationally applicable standards are used in determining what areas are to have stricter advertisement control.

In practice, Areas of Special Control vary considerably in their extent. For example, large areas of the Lake District and the Peak District and of the counties of North Yorkshire, Norfolk, Devon and Cornwall are Areas of Special Control, as are, at the other extreme, the cathedral precinct in York, parts of Westminster and small areas in the city of Leeds. The boundary of any Area of Special Control must always be defined precisely, by reference to an Ordnance Survey base-map, so that it is possible to ascertain whether particular premises are within special control or not. For this reason, it may be worth checking exactly where the boundary is because there may be small enclaves (such as a moderately sized town) where the stricter provisions do not apply.

In any Area of Special Control of Advertisements three main categories of outdoor advertising are permitted. They are:

- public notices
- advertisements inside a building
- advertisements for which there is deemed consent.
- Additionally, the planning authority may give their specific consent in an Area of Special Control for:
- notices about local events or activities;
- advance signs or directional signs which are 'reasonably required' in order to direct people to the place identified by the sign;
- an advertisement required for public safety reasons; and
- an advertisement in any of the deemed consent classes if it is considered reasonable for the normal limits on that class to be exceeded.

The main consequence for advertisements which can be displayed with deemed consent in an Area of Special Control is that there are stricter limits on permitted height and size of the advertisement than elsewhere. These limits are explained in relation to each class of deemed consent.