



Planning Guide - Control of outdoor advertisements

What constitutes an 'advertisement'?

For the purposes of the *Town and Country Planning Act 1990* (TCPA 1990) (as amended) and subordinate legislation, the term 'advertisement' means—

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, and references to the display of advertisements shall be construed accordingly.

Are there statutory planning restrictions on outdoor advertisements?

Section 220 of the TCPA 1990¹ confers power on the National Assembly for Wales² to make regulations controlling the display of advertisements in Wales. The present regulations are the *Town and Country Planning (Control of Advertisements) Regulations 1992*³. Section 221 of the TCPA 1990 allows regulations to be varied depending on local conditions, and in particular in areas of 'special control'.

What are the planning controls over advertisements?

Advertisements subject to control by the 1992 Regulations fall into two principal categories: advertisements for which *deemed consent* is granted by the regulations; and, advertisements which require *express consent* from the local planning authority (LPA).

Deemed consent

By regulation 6 of the 1992 Regulations, deemed consent is granted for the following displays of an advertisement falling within classes 1 to 14 listed in Schedule 3 (subject to any specified conditions and limitations and also to the standard conditions).

- Class 1: functional advertisements of local authorities, statutory undertakers and public transport undertakers, and advertisements displayed by LPAs on land in their areas.
- Class 2: miscellaneous advertisements relating to the premises on which they are displayed (e.g. professions, businesses, trades, religious institutions and hotels). There is some doubt as to whether signs for 'bed and breakfast' establishments are currently covered by Class 2.
- Class 3: miscellaneous temporary advertisements relating to sale or letting of property, the sale of goods or livestock, the carrying out of building or similar work, local events, demonstrations of agricultural processes, and visits of a travelling circus or fair.
- Class 4: illuminated advertisements on business premises.

¹ *Town and Country Planning Act 1990*, as amended
<http://www.lexisnexis.com/uk/legal/results/docview>

² Welsh Ministers from May 2007

³ *The Town and Country Planning (Control of Advertisements) Regulations 1992* SI 1992/666, as amended
<http://www.lexisnexis.com/uk/legal/results/docview>



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- Class 5: advertisements other than illuminated advertisements on business premises.
- Class 6: advertisements on forecourts of business premises.
- Class 7: flag advertisement attached to single flagstaff projecting vertically from the roof of a building, or on a site where planning permission is granted for residential development, and at least one house remains unsold.
- Class 8: advertisements on hoardings.
- Class 9: advertisements on highway structures.
- Class 10: advertisements for neighbourhood watch and similar schemes.
- Class 11: advertisements directing potential buyers to a residential development.
- Class 12: advertisements inside buildings.
- Class 13: sites used for the display of advertisements without express consent on 1 April 1974 and that have been used continuously since that date.
- Class 14: advertisements displayed after expiry of express consent (unless a condition to the contrary was imposed on the consent or a renewal of consent was applied for and refused).

Specified conditions and limitations are set out in detail under each of the above classes of advertisement subject to deemed consent.

The standard conditions are prescribed by Schedule 1 to the 1992 Regulations:

[1] Any advertisements displayed, and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the LPA.

[2] Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.

[3] Where an advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the local planning authority.

[4] No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

[5] No advertisement shall be sited or displayed so as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air, or so as otherwise to render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).

Deemed consent may be restricted in Wales by a notice issued by the National Assembly for Wales⁴ under Regulation 7. Using Regulation 8, a LPA may, by serving notice, require the discontinuance of the display of an advertisement, for which deemed consent was granted, "if satisfied that it is necessary to do so to remedy substantial injury to the amenity of the locality or danger to members of the public".

⁴ Welsh Ministers from May 2007



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Express consent

Unless an advertisement requiring consent has deemed consent under regulation 6, express consent is required; applications for express consent are made to the LPA, which may refuse or grant consent in whole or subject to the standard conditions and such additional conditions as thought fit.

The 1992 Regulations confer on an applicant a right of appeal to the National Assembly for Wales⁵ against the decision of a LPA; for these purposes, sections 78 and 79 of the TCPA 1990 apply (see Planning Quick Guide 51: Appeals Introduction for more information).

Express consent expires after five years unless otherwise specified⁵.

Are there any types of advertisement that are subject to exception?

Under the 1992 Regulations, the term 'advertisement' does not include anything employed wholly as a memorial or as a railway station signal⁶.

The statutory controls are relaxed in relation to certain advertisements specified in Schedule 2 to the 1992 Regulations; exceptions are subject to express conditions and limitations:

- *Class A*: the display, on not more than 10 days in total in any calendar year, of no more than one advertisement on, or consisting of, a balloon not more than 60 metres above ground level where the site is not within an area of outstanding natural beauty (AONB), a conservation area, a National Park or an area of special control.
- *Class B*: an advertisement displayed on enclosed land⁷, provided that the advertisement is not readily visible from outside the enclosed land or any place to which the public has a right of access.
- *Class C*: an advertisement displayed on or in a vehicle, provided that the vehicle is not normally employed except as a moving vehicle or used principally for the display of advertisements.
- *Class D*: an advertisement incorporated in the fabric of a building, provided that the building or any external face of it is not used principally for the display of advertisements. An advertisement fixed to, or painted on, a building is not regarded as incorporated in its fabric⁸. A scaffold is not incorporated into the fabric of the building and an advertisement attached to a scaffold does not have deemed consent⁹.
- *Class E*: an advertisement displayed on an article for sale or on the container in, or from which, an article is sold, provided it refers only to the article for sale, it is not illuminated, and does not exceed 0.1m² in area.
- *Class F*: an advertisement relating specifically to a pending Parliamentary, European Parliamentary or local government election, provided that the advertisement is removed within 14 days after the close of the poll.
- *Class G*: subject to conditions and limitations, an advertisement required to be displayed by Standing Orders of either House of Parliament or by any enactment.

⁵ Regulation 13(5).

⁶ Regulation 2(1).

⁷ Schedule 2, Class B, paragraph 2: for these purposes, 'enclosed land' includes any railway station, and its yards, or bus station, together with its forecourt, whether enclosed or not; but does not include any public park, public garden or other land held for use or enjoyment of the public, or, save as herein specified, any enclosed railway land normally used for the carriage of passengers or goods by rail.

⁸ Regulation 3(2), Schedule 2, Class D paragraph 2(a)

⁹ Kensington and Chelsea London Borough Council v Harvey Nichols & Co Ltd [2001] EWCA Civ 702, [2002] 1 P & CR 29.



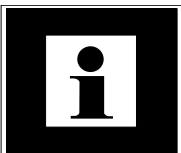
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- *Class H*: a traffic sign as defined by the *Road Traffic Regulation Act 1984* does not require consent.
- *Class I*: the national flag of any country provided it is displayed separately on a single vertical flagstaff and does not display any advertisement or subject matter additional to the design of the flag.
- *Class J*: an advertisement displayed inside a building not used primarily for the display of advertisements, provided it is not illuminated and no part of the advertisement is within one metre of any external door, window or other opening, through which it is visible from outside the building.

Does the planning system cover fly-posting?

No. However, section 43 of the *Anti-social Behaviour Act 2003* makes provision for local authorities to issue Fixed Penalty Notices for fly-posting.

Further Information:



The statutory provisions cited above may be subject to subsequent amendment; the consolidated text of those provisions can be obtained from Butterworths' *LexisNexis* service:

http://assembly/presidingoffic/mrs/resources/electronic/qlinks_lexisnexis.htm

Policy guidance on the control of outdoor advertisements is provided by *Technical Advice Note (Wales) 7: Outdoor Advertisement Control (1996)*¹⁰.

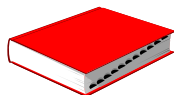
The Department for Communities and Local Government (formerly the Office of the Deputy Prime Minister) has provided a guide to the control of outdoor advertisements:

<http://www.communities.gov.uk/index.asp?id=1144629>



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¹⁰ Welsh Office, 1996, *Technical Advice Note (Wales) 7: Outdoor Advertisement Control (1996)*, http://new.wales.gov.uk/docrepos/40371/403823112/40382/40382/403821/403829/TAN_7b.doc?lang=en