

What is an advertisement?

The Advertisement control system under the Town and Country Planning (Control of Advertisements)(England) Regulations 2007 covers a wide range of advertisements and signs, all of which communicate information or a message to passers-by.

Advertisements may be permanent or temporary and depending on how long the advert is to be displayed for may affect whether or not the advert requires advertisement consent.

Is consent required for all advertisements?

Not all advertisements require consent from the Local Planning Authority (LPA). They may be exempt or have deemed consent (not requiring formal consent from the LPA) under the Regulations. Although, advertisers are advised to check with their LPA if they have any doubts as to whether consent is required.

Exempt advertisements

There are nine classes of advertisements that are exempt from advertisement control providing that the conditions and limitations for each class are met. Examples include traffic signs, national flags and advertisements displayed on enclosed land such as railway or bus stations.

Advertisements with deemed consent

There are 16 classes of advertisements that have the benefit of deemed consent under the Regulations providing that the conditions for each class are met. The conditions generally deal with the size, height, number and illumination of the advertisement. Examples include estate agent boards and local event notices.

Advertisements requiring consent

If an advertisement does not fall within the exempt or deemed consent categories, then it will require consent from the LPA. Examples include poster hoardings, externally illuminated signs and directional signs.

To obtain consent, an advertiser must make an application to the LPA. On considering whether to consent to the advertisement, the LPA will consider the visual amenity and interests of public safety of the advertisement. The LPA is not required to consider the content of the advertisement as offences to decency are not planning matters and are regulated by the Advertising Standards Agency.

Enforcement of unauthorised advertisements

To display an unauthorised advertisement is a criminal offence. The LPA can issue proceedings in the Magistrates Court. However, unless the offence is ongoing or repeated, the LPA may not consider formal enforcement action to be necessary in the first instance.

The maximum fine is currently £2,500 with an additional daily fine of £250 on conviction of a continuing offence.

What is Fly-posting?

There is no statutory definition of fly-posting. However, it is generally taken to be the display of advertising material on buildings and street furniture without the consent of the owner, contrary to the provisions of the Regulations.

There are other types of unauthorised advertisements (such as hoardings, A boards and business cards displayed in telephone boxes) which fall outside the normal definition of flyposting.

Legal Framework

There are a number of pieces of legislation under which fly-posting can be controlled. The principal mechanism is s.224 and s.225 of the Town and Country Planning Act 1990. However, other powers exist under the Highways Act 1980, the Cleaner Neighbourhoods and Environment Act 2005 and local legislation.

In the worst case scenario, the LPA can prosecute the advertiser or the beneficiary of the advertisement and a fine could be imposed by the Magistrates Court.

Travelling circuses and fairs

An advertisement relating to the visit of a travelling circus, fair or similar travelling entertainment to any specified place in the locality will not need consent provided the following requirements are met.

1. The advertisement does not exceed 0.6 square metres in area.
2. No advertisement is displayed earlier than 14 days before the first performance or opening of the entertainment at the place specified.
3. The advertisement is removed within 7 days after the last performance or closing of the specified entertainment.
4. At least 14 days before the advertisement is first displayed, the Local Planning Authority is notified in writing of the first date on which, and of the site at which, it is to be displayed.
5. Illumination is not permitted.
6. No part of the advertisement is more than 4.6 metres above ground level, or 3.6 metres in an area of special control for advertisements. (Please contact the Local Planning Authority for details of the location of areas of special control).

There is no restriction relating to the number or siting of these advertisements.

Planning Enforcement action taken regarding advertisements

Planning Enforcement work closely with the Highway Authority and the NBC Regulatory Services Department. The three departments have different legislation to deal with unauthorised advertisements, which include flyposting, and apply the most relevant and effective legislation to deal with each breach.

The Neighbourhood Wardens also monitor the relevant areas and remove unauthorised advertisements, where appropriate.

We also liaise with the Licensing department and external agencies such as, Pub Watch, to remind the Licensee of the premises of their obligations.

Planning Enforcement have not needed to utilise the Town and Country Planning Act to prosecute offenders as the unauthorised advertisements have either been removed, following informal warnings, or the other departments have applied their more appropriate legislation. Prosecuting under the Town and Country Planning Act can be a protracted and expensive process and during the litigation period the advertisement may remain in situ.

Planning enforcement tend to negotiate the removal of the unauthorised signs and if applicable, secure a suitable replacement.

Plans for sites within the Town

The Council has limited or no control over when proposed development of land, not within its control or ownership, will take place.

In the particular case of St Edmunds, the developer is due to submit a planning application imminently. This has taken a long time due to the complex and technical nature of this site, also taking into account its status as a Listed Building, a great deal of work and considerations is required prior to the submission of an application. The planning department are working close with the owner of the site on a suitable scheme for the site.

We may be in a position to provide more information on specified sites.

Replacement of Street Furniture

The replacement of large scale street furniture falls within the jurisdiction of the County Council as Highway Authority. They have their own legislation and processes to deal with these matters.