



Department for
Communities and
Local Government

Mark Reynolds
Group Manager
Development Management
Bath & North East Somerset Council
Lewis House, Manvers Street
Bath BA1 1JG

Our Ref: APP/ADCPO/F0114/015

Your Ref: LB/REG7MA/112015

7 November 2016

Dear Mr Reynolds,

**TOWN AND COUNTRY PLANNING (CONTROL OF ADVERTISEMENTS)
(ENGLAND) REGULATIONS 2007 ("the Regulations")
REGULATION 7: DIRECTION RESTRICTING DEEMED CONSENT**

1. I have been asked by the Secretary of State to respond to the request made by the Bath & North East Somerset Council ("the Council") on 24 November 2015 for a new Direction that deemed consent for the display of estate agents' letting and sale boards, which are advertisements under Class 3A of Part 1 of Schedule 3 to the Regulations, should not apply within the City of Bath Conservation Area ("the Area").
2. The Council consulted on the Direction by placing advertisements in the London Gazette and the local press on 17 December 2015. There was one objection to the proposed Direction, which expressed concern that controls would apply only to the Area.
3. The objection said that the area of control should be extended to include areas such as Oldfield Park and Twerton where there are Houses of Multiple Occupation mainly with a student population. The respondent does not identify the actual areas on a map and the Inspector noted that the Area does cover parts of these areas.

The Council's reasons for seeking the Direction

4. The Council seeks a further Direction, as the Direction made in 2005 expired on 15 December 2015, for the same reasons as stated in the previous Direction. Before controls were brought into force, estate agents' boards were of such a number as to have a detrimental effect on the Area. Since controls have been in place, there has been a significant enhancement in the appearance of the Area, which is a major tourist attraction, without any effect on the property market.

Department for Communities and Local Government
3rd Floor NE
Fry Building
2 Marsham Street
London
SW1P 4DF

Tel 030344 41717
Email: robert.segall@communities.gsi.gov.uk

5. The restrictions now sought are the same as before, except that the Council has requested that, if made, the Direction remains in place on a permanent basis.

Description of Proposed Areas

6. The proposed Direction would cover the Area, with the number and location of properties unchanged from the previous Direction. The Area is smaller than the World Heritage Site, but still covers two-thirds of the city. The character of the Area ranges from formal set-piece architecture in the centre to areas with more rural character nearer the periphery. The Area is identified in green on a map and a list of all properties within the Area, prepared by the Council, are both attached.
7. The Inspector said in his report that there was a notable absence of estate agent boards on residential properties and the advertisement of commercial buildings for let was achieved by placing signage boards behind shop windows.

Appraisal

8. Directions removing deemed consent for the display of estate agents' letting and sale boards have been in place for a period of approximately 26 years and the Council reports that they have worked well to control the otherwise adverse impact that estate agents' boards would have on the character and appearance of the Area.
9. The Inspector noted that the property market has not suffered as a result of the Directions and the absence of objections to the application for renewal, bar the representation seeking a wider area of application, lends a strong support to this view. The last Inspector said in his report that the Directions have been self-policing, as estate agents and property owners are aware that their signs cannot be displayed within the Area. Where signs have been displayed without express consent they have been quickly removed, when requested by the Council.
10. Having regard to the above, the report of the previous Inspector and the reasons given by the Secretary of State in letters dated 15 December 2005 and 3 March 1995, the Inspector concluded that there are compelling reasons for the control over estate agents' boards to be the subject of a new Direction.
11. The Inspector noted that the Council would prefer a Direction to be made on a permanent basis. He, however, was of the view that as a Direction removes powers which are otherwise granted by statute, it would not be appropriate to remove them indefinitely without the opportunity for review. This was also the opinion of the Secretary of State when the Direction was last renewed.
12. The Inspector noted the representation that the Direction should be extended to cover the entire World Heritage Site. However, regulation 7(5) of the Regulations does not empower the Secretary of State to modify the proposal of

the local planning authority where this would extend the area of land specified in the proposal.

13. One representation was received seeking a wider area of application of the proposed Direction which is dealt with by the inspector above. There have been no substantive objections to the proposed Direction on properly made grounds and affecting the area to which it would relate. Having regard to this, and for the reasons set out above, the Inspector concludes that the display of advertisements relating to the sale or letting of land or premises within the Area should require express consent from the Council and that a new Direction should be granted for a ten year period.

Formal Decision

14. The Secretary of State notes the Inspector's consideration of the issues and accepts the recommendations. The Secretary of State is satisfied that the Area has special visual quality which would only be preserved by removing deemed consent rights for the display of estate agents' boards. Therefore, a new Direction should be made to control the display of advertisements relating to the sale or letting of premises within the areas comprised of the properties within the Area and identified on the attached list and maps submitted by the Council for a period of ten years.
15. A formal Direction is attached. The Council's attention is drawn to the provisions of regulation 7(7), which specify the procedure for publishing the effect and date of operation of the Direction.
16. When this Direction is brought into effect, the display of estate agents' boards in respect of the sale and letting of premises may only be undertaken lawfully in the area specified in paragraph 4 above, when the Council have granted express consent for the display. In order not to prejudice the interests of persons wishing to display advertisements for property lettings, the Council are invited to ensure that any such applications for express consent are decided within the period specified in Regulation 16(1) of the Regulations.

Right of Appeal against the Decision

17. The decision of the Secretary of State may be challenged by way of an application to the High Court and a separate note is attached to this letter setting out the circumstances in which such an application may be made.

Yours sincerely,



Robert Segall

CHALLENGE TO THE SECRETARY OF STATE'S DECISION BY APPLICATION TO THE HIGH COURT

Under the provisions of section 288 of the Town and Country Planning Act 1990 ("the 1990 Act") a person aggrieved by the decision given in the accompanying letter may challenge its validity by applying to the High Court. An application may not be made without permission of the High Court, and an application for leave must be made within 6 weeks from the date of the accompanying letter.

Grounds of challenge

The grounds upon which an application may be made to the Court under section 288 are:

- that the decision is not within the powers of the 1990 Act (that is, the Secretary of State has exceeded his powers); or
- that any of the relevant requirements have not been complied with, and in consequence the applicant's interests have been substantially prejudiced by the failure to comply with the provisions.

The "relevant requirements" are defined in section 288 of the 1990 Act as:

- any requirements of the 1990 Act or the Tribunals and Inquiries Act 1992, or
- of any order, regulations or rules made under either of those Acts which are applicable (s.288(9)). These include the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (SI 2007 No. 783), as amended, and the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 (SI 2000 No. 1624), as amended.

A person who thinks he may have grounds for challenging the decision should seek legal advice before taking any action.

INSPECTION OF DOCUMENTS – APPLICABLE ONLY TO APPEALS WHICH WERE THE SUBJECT OF A HEARING

Under rule 15(4) to (5) of the Town and Country Planning (Hearings Procedure) (England) Rules 2000 (SI 2000 No. 1626) any person entitled to be notified of the decision given in this letter may apply to the Secretary of State in writing within 6 weeks of the date of the decision for the opportunity to inspect any documents appended to the report.

An application under this rule should be sent to the address from which the decision was issued, quoting the Department's reference number shown on the decision letter.

Department for Communities and Local Government
3rd Floor NE
Fry Building
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An opportunity is taken to have been afforded if the person is notified of the publication of the relevant documents on a website, the address of the website, the place on the website where the documents may be accessed and how they may be accessed.

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DIRECTION BY THE SECRETARY OF STATE UNDER REGULATION 7 OF THE TOWN AND COUNTRY PLANNING (CONTROL OF ADVERTISEMENTS) (ENGLAND) REGULATIONS 2007 RESTRICTING DEEMED CONSENT IN THE CITY OF BATH CONSERVATION AREA (No. 04/2016)

The Secretary of State for Communities and Local Government (“the Secretary of State”) in exercise of powers conferred on him by regulation 7 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (“the Regulations”), and further to a proposal from the Bath & North East Somerset Council (“the Council”), directs that:

1. The display of advertisements relating to the sale or letting of land or premises, as specified in Class 3A of Part 1 of Schedule 3 to the Regulations should not be undertaken without the express consent of the Council in the areas specified in the Schedule, and identified on the map annexed to this direction.

Duration

2. This direction has effect for a period of ten years from the date on which it comes into force. In accordance with regulation 7(9) of the Regulations this direction comes into force on the date specified in the notice given under regulation 7(7) of those Regulations.

Reasons

3. The Council made a proposal dated 24 November 2015 to the Secretary of State and he is satisfied that this direction should be issued.
4. The reasons for the Secretary of State’s decision are set out in his letter of 7 November 2016 to the Council, a copy of which is attached to this direction.
5. The Council’s proposal was publicly advertised in accordance with regulations 7(2)(a) and 7(3) of the Regulations; one representation was made to the Secretary of State within 21 days from the date on which the notice was first published.

Signed by authority of the Secretary of State for Communities and Local Government



**7 November 2016
Robert Segall
Department for Communities and Local Government**

Conservation Areas within the City of Bath

Extracted from the Bath & North East Somerset Adopted Local Plan 2007

Author : Planning Policy
Date : 22/07/2015
Scale: 1:40,000

Bath & North East
Somerset Council



