

Notice served by Sheriff Officer on 30 September 2015 @ 1:35 p.m.
Copy of Notice sent 1st Class Post - Recorded Delivery to Landowner, McLagan
Investments Ltd. on 24 September 2015.

30.11.15. - REQUIREMENTS OF NOTICE
FULLY COMPLIED WITH. *af*



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East Dunbartonshire Council

www.eastdunbarton.gov.uk

IMPORTANT – THIS COMMUNICATION AFFECTS LAND USE

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997,
AS AMENDED BY THE PLANNING ETC. (SCOTLAND) ACT 2006.**

**TOWN AND COUNTRY PLANNING (CONTROL OF ADVERTISEMENTS)
(SCOTLAND) REGULATIONS 1984, AS AMENDED.**

**ADVERTISEMENT ENFORCEMENT
NOTICE**

REFERENCE NUMBER: ED2015/0052/ENF

SERVED BY: East Dunbartonshire Council

**SERVED ON: Tedesco Tiling and Terrazzo Contractors Limited
288 Kirkintilloch Road
Bishopbriggs
Glasgow
G64 2PT**

- 1. THIS IS A FORMAL NOTICE** issued under regulation 24 of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984, as amended, (hereinafter referred to as “the Regulations”) by East Dunbartonshire Council (hereinafter referred to as “the Council”) as Planning Authority because it appears to the Council that there has been a breach of advertisement control at the land hereinafter described.

The Council believes it is expedient to issue this Notice as an advertisement has been displayed by “**Tedesco Tiling and Terrazzo Contractors Limited**” without consent having been granted by the Council, and with such consent being required by the Regulations.

- 2. THE LAND AFFECTED BY THE NOTICE**

The site (hereinafter referred to as “the Site”) to which this Notice relates forms an area of land comprised of an area of grass verge and landscaping strip adjoining the eastern boundary of Kirkintilloch Road, Bishopbriggs, at its junction with Villafield Drive, all as identified and delineated in red on the Location Plan, noted as such, and attached and annexed to this Notice.

3. **THE BREACH OF ADVERTISEMENT CONTROL ALLEGED**

The advertisement (hereinafter referred to as "the Advertisement") referred to in this Notice is displayed without consent, and with such consent being required by the Regulations. The Advertisement is located on an area of bare ground on the Site at the junction of Kirkintilloch Road with Villafield Drive, Bishopbriggs, and with the Advertisement marked with an "x" and annotated "C" on the Location Plan. The Advertisement is described in **Schedule 1**, noted as such, and attached and annexed to this Notice.

4. **REASONS FOR ISSUING THIS NOTICE**

- a) The Advertisement referred to in this Notice is an advertisement as defined by regulation 2 of the Regulations.
- b) The Advertisement does not fall within any of the specified classes of advertisements that may be displayed with deemed consent, and as described in Schedule 4 of the Regulations.
- c) As the Advertisement does not fall within any of the specified classes of advertisements which may be displayed with deemed consent (as described in Schedule 4 of the Regulations), consent by either the Council or the Scottish Ministers is required, and no such consent has been granted.
- d) An application for retrospective consent was refused by the Council as Planning Authority on 17 February 2015 under reference TP/ED/14/0718 for 3 advance signs, 4 flag poles and 1 fascia advertisement at the premises located at 288 Kirkintilloch Road, Bishopbriggs. The reason for refusal was:-

"The proposed signs by reason of their size, siting and locations would have an adverse impact on the visual amenity of the area. The proposal is therefore contrary to Local Plan policy DQ 2C – Advertisements and Guidance Note 1 Advertisement Control."

The refusal of consent is reproduced in **Schedule 2**, noted as such, and attached and annexed to this Notice.

The Council's decision to refuse consent was the subject of an appeal to the Directorate for Planning and Environmental Appeals under reference ADA-200-2000. The appeal was allowed in part, and to the effect of consent being granted for 4 flag poles and 1 fascia advertisement in accordance with the details submitted to the Council in the application under reference TP/ED/14/0718. The remainder of the appeal was dismissed to the effect of upholding the decision to refuse consent for the 3 advance signs as submitted to the Council under reference TP/ED/14/0718. The Advertisement that is the subject of this Notice constitutes one of those 3 advance signs.

The Appeal Decision Notice is reproduced in **Schedule 3**, noted as such, and attached and annexed to this Notice.

5. **WHAT YOU ARE REQUIRED TO DO**

You are required to take the following steps:

- (1) Discontinue the use of the Site, as identified and delineated in red on the Location Plan, for the display of the Advertisement.

Time Period for Compliance: 28 days from the date this Notice takes effect.

- (2) Remove the Advertisement marked with an "x" and annotated "C", as described in **Schedule 1**, from the Site as identified and delineated in red on the Location Plan.

Time Period for Compliance: 28 days from the date this Notice takes effect.

- (3) ~~Remove from the land all associated materials arising from compliance with requirements (1) and (2) above.~~

Time Period for Compliance: 28 days from the date this Notice takes effect.

6. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on **1 November 2015**, unless an appeal is made to the Scottish Ministers before the date the Notice takes effect.

A copy of this Notice is served on the owner of the land.

7. YOUR RIGHT OF APPEAL

You can appeal against this Notice. Your appeal must be received, or posted in time for receipt, by the Scottish Ministers before this Notice takes effect.

Schedule 4, noted as such, and attached and annexed to this Notice contains explanatory notes for those in receipt of an "Enforcement Notice". The Schedule contains information on your right of appeal.

Schedule 5, noted as such, and attached and annexed to this Notice contains extracts of relevant legislation. It is reproduced to assist you. It is your responsibility to check the legislation that you consider to be relevant to this Notice.

8. WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this Notice, it will take effect on **1 November 2015** and you must ensure that the required steps for complying with it have been taken by the end of the Time Period for Compliance as specified in this Notice. Failure to comply with the requirements of this Notice can result in prosecution and/or the taking of certain measures by the Council as hereinafter described.

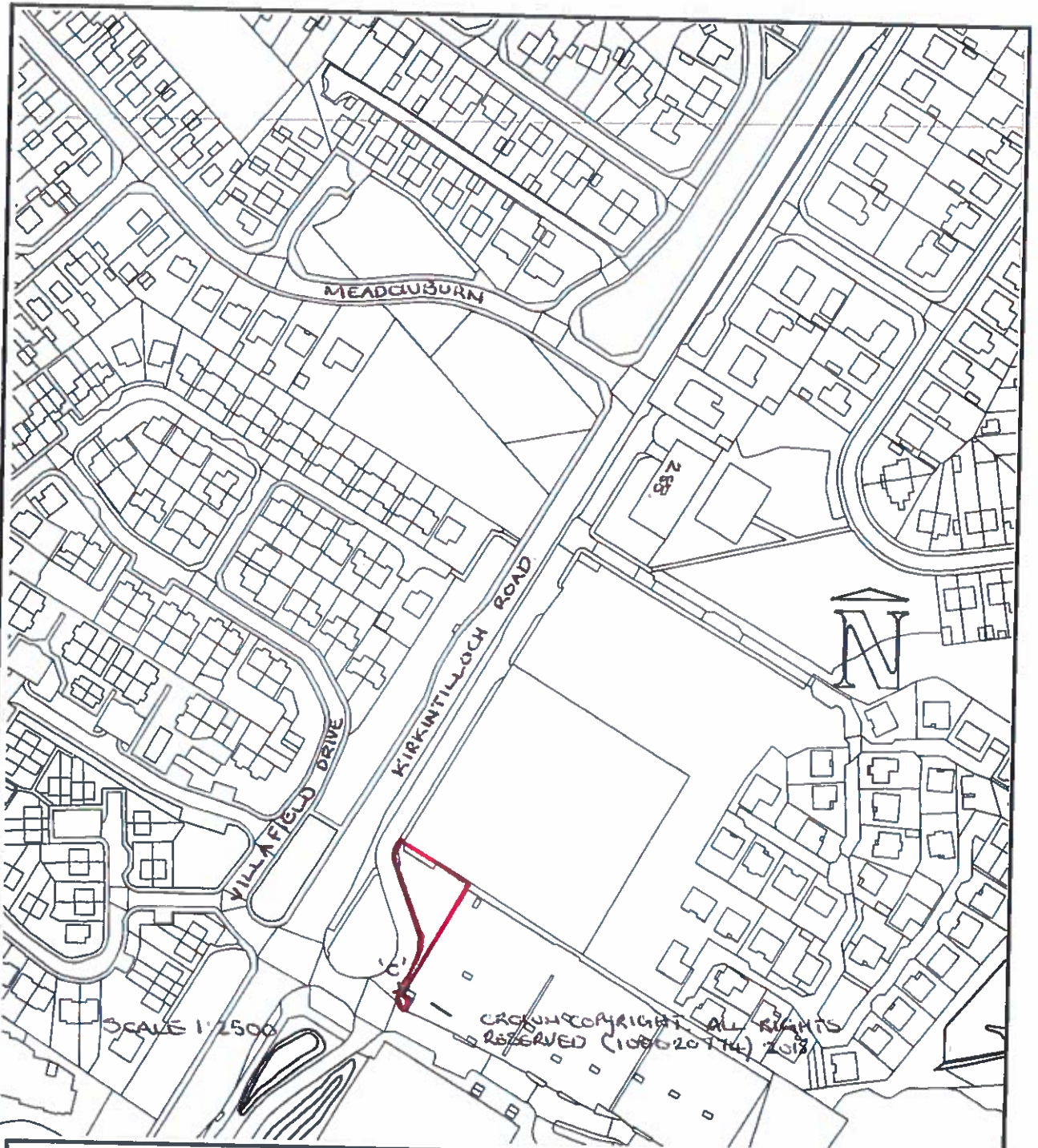
Dated: *23 September 2015*

Signed: *Bob Glen*

Thomas Glen
Director of Development and Regeneration

On behalf of: **East Dunbartonshire Council**
Southbank House
Strathkelvin Place
Kirkintilloch
Glasgow
G66 1XQ

LOCATION PLAN



This is the Location Plan referred to in the foregoing Advertisement Enforcement Notice issued in accordance with regulation 24 of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984, as amended, regarding the display of an advertisement without consent on an area of land identified and delineated in red on this Location Plan, and with the advertisement marked with an "x" and annotated "C" on the Plan.

Dated: 23 September 2015

Signed: *Bob Glen*

Thomas Glen, Director of Development and Regeneration, East Dunbartonshire Council, Southbank House, Strathkelvin Place, Kirkintilloch, Glasgow, G66 1XQ.

SCHEDULE 1

DESCRIPTION OF THE ADVERTISEMENT REFERRED TO IN THIS NOTICE

The Advertisement located and marked “C” on the Location Plan

The Advertisement is comprised of two timber posts embedded in bare ground that adjoins the eastern boundary of Kirkintilloch Road, Bishopbriggs, at its junction with Villafield Drive. A rectangular display area is fixed to the timber posts. The display area faces traffic travelling along Kirkintilloch Road. The display area is 0.62 metres in height and 1.80 metres in width. The bottom edge of the display area is 0.30 metres above ground level. The display area is generally white in colour containing the text “Tedesco Tile Centre”. The text is black in colour apart from the initial letter “T” which is vertically partitioned with red for the left and green for the right of the letter. There is a black directional arrow pointing in a northerly direction to the left of the text on the display area. The Advertisement is more particularly identified in the photograph below.



SCHEDULE 2



sustainable thriving achieving

East Dunbartonshire Council

www.eastdunbarton.gov.uk

REFUSAL OF ADVERTISEMENT CONSENT NOTICE NO. TP/ED/14/0718

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
AS AMENDED BY THE PLANNING ETC. (SCOTLAND) ACT 2006**

Applicant

Agent (if applicable)

Mr Ignatius Tedesco
Tedesco Tilling & Terazzo
288 Kirkintilloch Road
Bishopbriggs
G64 2PT

With reference to your application dated 26 September 2014 for consent to the following display of advertisement;

3 advance signs, 4 flag poles and 1 fascia advertisement

288 Kirkintilloch Road, Bishopbriggs, East Dunbartonshire,

The East Dunbartonshire Council in exercise of their powers under the Acts and Orders hereby refuse advertisement consent for the said development.

The reasons for the Council's decision are:-

1. The proposed signs by reason of their size, siting and locations would have an adverse impact on the visual amenity of the area. The proposal is therefore contrary to Local Plan policy DQ2C - Advertisements and Guidance Note 1 Advertisement Control.

Dated: 17 February 2015


Director of Development & Regeneration

(SEE OVER)

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
AS AMENDED

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval of reserved matters in respect of the proposed development, or to grant permission or approval subject to conditions, he may appeal to the Scottish Ministers under section 47 of the Town and Country Planning (Scotland) Act 1997 as amended within three months from the date of this notice. The appeal should be addressed to the Scottish Government, Directorate for Planning and Environmental Appeals, 4 The Courtyard, Callendar Business Park, Callendar Road, FALKIRK FK1 1XR.

2. If permission to develop land is refused or granted subject to conditions, whether by the planning authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the planning authority a purchase notice requiring the purchase of his interest in the land on accordance with Part V Chapter II of the Town and Country Planning (Scotland) Act 1997 as amended.

SCHEDULE 3

APPEAL DECISION NOTICE UNDER REFERENCE ADA-200-2000

Directorate for Planning and Environmental Appeals
Appeal Decision Notice

T: 01324 696 400
F: 01324 696 444
E: dpea@scotland.gsi.gov.uk



Decision by Lance R Guilford, a Reporter appointed by the Scottish Ministers

- Advertisement appeal reference: ADA-200-2000
- Site address: 288 Kirkintilloch Road, Bishopbriggs, East Dunbartonshire G64 2PT
- Appeal by Tedesco Tiling and Terrazzo against the decision by East Dunbartonshire Council
- Application for advertisement consent refused by notice dated 17 February 2015
- The advertisement proposed: 3 advance signs, 4 flag poles and 1 fascia advertisement
- Date of site visit by Reporter: 10 June 2015

Date of appeal decision: 8 July 2015

Decision

I allow the appeal in part, and grant advertisement consent for 4 flag poles and 1 fascia advertisement in accordance with the details submitted to the council in the above referred to application for advertisement consent. However, I dismiss the appeal to the extent that I refuse advertisement consent for 3 advance signs located on the grass verge as submitted to the council in the above referred to application for advertisement consent.

I do not consider that any site-specific conditions are necessary. However, the standard conditions in Part 1 of Schedule 1 of the 1984 Regulations (to the extent that they are relevant) apply to the advertisement consent hereby granted.

Reasoning

1. Regulation 4(1) of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 limits the exercise of the powers of control of advertisements solely to the interests of amenity and public safety, and these matters are elaborated in regulation 4(2). Accordingly, on the basis of the site inspection and the written submissions, I consider that the determining issues in this appeal are whether the display is contrary to the interests of amenity or public safety. I have taken into account all of the representations submitted, but only in so far as they relate to these determining issues.

2. I note that this is a retrospective application to the extent that the advertisements have already been displayed. However, I note from my site inspection that 6 flag poles were being displayed at that time, and I would therefore confirm that I am only considering the display of 4 flag poles in the terms of the application for advertisement consent as submitted to the council. I also note that one of the advance signs has been removed, and

Directorate for Planning and Environmental Appeals
4 The Courtyard, Callendar Business Park, Falkirk, FK1 1XR
DX 557005 Falkirk www.scotland.gov.uk/Topics/Planning/Appeals



that the appellant now only seeks advertisement consent for 2 advance signs. I take account of that matter in my reasoning below, but I would confirm that my decision relates to the 3 advance signs also in the terms of the application for advertisement consent as submitted to the council.

3. Considering the issue of amenity first, I am satisfied that the removable flag poles and fascia advertisement on the gable elevation of the building are appropriate to the scale and use of the building. I do not consider that there is any adverse impact on the visual amenity, or as a result the residential amenity, of the area. The fascia advertisement fits well within the surface of the gable wall and does not occupy a disproportionate amount of the wall's surface. It is visually compatible with the fascia advertisement on the front elevation of the building. I am also satisfied that it is consistent with the relevant council policies and guidance relating to advertisements on commercial or industrial buildings.

4. The flag poles in my view add some visual interest to the forecourt of the building. They are of a design and scale which relates well to the design, scale and use of the building, and are contained within the forecourt. When viewed from the service road adjacent, they are only seen to extend to a height equivalent to that of the eaves of the building. They are also removable, but I do not consider that it would be necessary or reasonable to impose restrictions on when these flag poles may be displayed.

5. However, with respect to the advance signs, I consider that different circumstances apply. I recognise that the access arrangement for vehicles is somewhat unusual in that access to the site is taken from a service road parallel the main road, which in turn takes access from a traffic light controlled junction also providing access to a supermarket to the south of the appeal premises. I therefore recognise that there may be a need in the circumstances for an appropriate direction sign.

6. I note that the council has prepared guidance relating to advance signs which generally opposes such signs, except for the purposes of road safety to give information to the public. Where the principle of an individual sign is accepted, the display should normally comprise one double-sided sign at the public/private road junction leading directly to the premises advertised. Guidance on scale and design is also provided, and it is stated that the sign should contain explanatory information rather than general advertising.

7. From my site inspection, I note that the advance signs are on a grass verge, with one being in front of the appeal premises and the other 2 being near to the junction of the service road with the main road. One of the signs near the junction has been removed. I find that whilst there are signs relating to other commercial premises in the vicinity, including a large supermarket sign at the junction, these are not advance signs, and the grass verge on which the signs are located does not have any other such signs. The signs are also larger than would be necessary for a simple directional sign, and contain general advertising in the form of a company logo. The signs have some adverse impact on visual amenity, and may set a precedent for other such signs in the future.

8. Whilst I accept that there may be justification for a single sign at the junction which concentrates on direction rather than general advertising, I do not consider that multiple signs containing general advertising (of the scale of the subject signs) are necessary or appropriate, and I therefore find that they are contrary to the interests of amenity. For the



avoidance of doubt, whilst my decision relates to the 3 advance signs applied for, I consider that this finding would also apply to the 2 advance signs for which the appellant now seeks permission, even though the adverse impact on amenity would be slightly less.

9. Turning to the issue of public safety, the only relevant matter for consideration in this case relates to road safety. I note that the council has not refused advertisement consent on the grounds of public safety, but that concerns about road safety have been raised within representations specifically in relation to the advance signs and the flag poles. However, I find that the advertisements referred to are not of a scale or design that they cause any significant distraction to motorists approaching the traffic light junction. They do not therefore have any significant adverse impact on road safety.

Overall conclusion

10. In overall terms, I conclude that the 4 flag poles and 1 fascia advertisement are acceptable in the interests of amenity, but that the 3 advance signs are contrary to the interests of amenity. However, none of the advertisements are contrary to public safety.

Lance R Guilford

Reporter



SCHEDULE 4

EXPLANATORY NOTES FOR THOSE IN RECEIPT OF AN ADVERTISEMENT ENFORCEMENT NOTICE

Relevant Legislation

Extracts of applicable legislative provision are contained in **Schedule 5** to this Notice, and include section 186 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006, and together with regulations 24, 25 and 26 of the Regulations. The following notes are also relevant.

Right of Appeal

If you wish to appeal against this Notice, you should write to the Directorate for Planning and Environmental Appeals, 4 The Courtyard, Callendar Business Park, Callendar Road, Falkirk, FK1 1XR. Alternatively, you can submit your appeal online at <https://eplanning.scotland.gov.uk/WAM/>. The appeal must be received, or posted in time for receipt, by the Directorate before the date on which this Notice takes effect. The Directorate acts on behalf of Scottish Ministers and has no power to consider an appeal that is not submitted on time.

Any appeal, must be made in writing, and must be based on one or more of the grounds set out in regulation 25(2)(b)(i) to (iv) of the Regulations. You should state the facts in support of each of the grounds of appeal you intend to rely upon. The statement of facts and the grounds of appeal must be submitted with your appeal.

If you lodge an appeal, this Notice will be suspended and will not take effect until such time as the appeal is either withdrawn or dismissed.

Consequences of not complying with this Notice

If the steps required by this Notice are not taken within the Time Period for Compliance, the Council may enter the land and take action under regulation 26 of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984, as amended, in order to meet those requirements. The Council can also recover all reasonable costs incurred, including administration costs. It is an offence for any person to wilfully obstruct a person acting in the exercise of the aforementioned measures that can be taken by the Council.

If a fixed penalty is paid, the Council retains the authority to take measures to remedy the breach and to recover any associated costs.

Further Offences

Compliance with the terms of this Notice does not discharge the Notice. It will continue to have effect, and any repetition in the form of breaching the Notice may incur further penalties or result in further measures being taken by the Council.

SCHEDULE 5

EXTRACTS OF RELEVANT LEGISLATION

Section 186 of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006

186. Enforcement of advertisement control

(1) Regulations under section 182 may make provision for enabling the planning authority to require-

- (a) the removal of any advertisement which is displayed in contravention of the regulations, or,
- (b) the discontinuance of the use for the display of advertisements of any site which is being so used in contravention of the regulations.

(2) For that purpose the regulations may apply any of the provisions of Part VI with respect to enforcement notices or the provisions of section 143(1) to (5), subject to such adaptations and modifications as may be specified in the regulations.

(3) Without prejudice to any provisions included in such regulations by virtue of subsection (1) or (2), if any person displays an advertisement in contravention of the regulations he shall be guilty of an offence and liable on summary conviction to a fine of such amount as may be prescribed, not exceeding level 3 on the standard scale and, in the case of a continuing offence, one-tenth of level 3 on the standard scale for each day during which the offence continues after conviction.

(4) Without prejudice to the generality of subsection (3), a person shall be deemed to display an advertisement for the purposes of that subsection if-

- (a) he is the owner or occupier of the land on which the advertisement is displayed, or
- (b) the advertisement gives publicity to his goods, trade, business or other concerns.

(5) A person shall not be guilty of an offence under subsection (3) by reason only-

- (a) of his being the owner or occupier of the land on which an advertisement is displayed, or
- (b) of his goods, trade, business or other concerns being given publicity by the advertisement,

if he proves that it was displayed without his knowledge or consent.

Regulations 24, 25 and 26 of the Town & Country Planning (Control of Advertisements) (Scotland) Regulations 1984, as amended

24. Enforcement of advertisement control

(1) If it appears to a planning authority that any advertisement has been displayed without a consent required by these regulations or that any condition or limitation subject to which such consent was granted or was deemed to be granted has not been complied with, then the planning authority may serve a notice under this regulation.

(2) An enforcement notice shall be served on the owner, lessee and occupier of the land to which it relates and on any other person known to the planning authority to be displaying the advertisement without such consent, or in contravention of any condition or limitation or subject to which consent was granted or deemed to be granted.

(3) An enforcement notice shall specify the advertisement which is alleged to have been displayed without consent or the matters in respect of which it is alleged that any condition or limitation has not been complied with, and may specify steps that shall be taken within a given period to restore land to its condition before the display was begun or to secure compliance with the condition or limitation; but may in addition specify, as an alternative, steps required to be taken to bring the display to a condition acceptable to the planning authority having regard to the provisions of these regulations and in particular any such notice may for this purpose require the demolition or alteration of any buildings or works, the discontinuance of any use of land, or the carrying out on land of any building or other operations.

(4) Subject to section 131 (3) of the Act as applied by regulation 25, an enforcement notice shall take effect on the date specified in the notice, which date shall be-

(a) in the case where the planning authority consider it urgently necessary in the interests of public safety that the advertisement to which the notice relates should be altered or removed, or where they are satisfied that any steps required by the notice to be taken can be taken without the removal or substantial modification of any structure or the carrying out of any building or similar operations on land, 7 days; and

(b) in any other case 28 days,

from the date of the latest service of the notice.

(5) Compliance with an enforcement notice shall not discharge the enforcement notice.

(6) Without prejudice to paragraph (5) above, any provision of an enforcement notice requiring the use of land to be discontinued shall operate as a requirement that it shall be discontinued permanently to the extent that it is in contravention of these regulations; and accordingly the resumption of that use at any time after it has been discontinued in compliance with the enforcement notice shall to that extent be in contravention of the enforcement notice.

(7) If any development is carried out on land by way of reinstating or restoring buildings or works which have been demolished or altered in compliance with an enforcement notice, the notice shall, notwithstanding that its terms are not apt for the purpose, be deemed to apply in relation to the buildings or works as reinstated or restored as out applied in relation to the buildings or works before they were demolished or altered.

25. Enforcement Appeals to the Scottish Ministers

(1) The provisions of sections 130 to 132 of the Act apply in relation to an enforcement notice served under regulation 24 as they apply to an enforcement notice issued under section 127 of the Act subject to the modifications specified in paragraph (2).

(2) The modifications are—

(a) references to an enforcement notice are to be treated as references to an enforcement notice served under regulation 24;

(b) section 130(1) of the Act applies as if the grounds of appeal were—

(i) that the matters alleged in the notice do not constitute a display of an advertisement without a consent required by these regulations or a failure to comply with any condition or limitation subject to which any such consent was granted or deemed to be granted;

(ii) that the enforcement notice was not served as required by regulation 24;

(iii) that the specified period for compliance with the notice falls short of what should reasonably be allowed;

(iv) that the steps required by the notice to be taken exceed what is necessary for the purpose identified under regulation 24(3); and

(c) the reference in section 132(4) of the Act to section 127(2) is treated as a reference to regulation 24 of these Regulations.

26. Execution and costs of operations required by enforcement notice

(1) If within the period specified in an enforcement notice, or within such extended time as the planning authority may allow, any steps required by the notice to be taken (other than the discontinuance of any use of land) have not been taken, the planning authority may enter on the land and take those steps and, subject to the proviso to this regulation, may recover as a civil debt from the person who is then the owner or lessee of the land any expenses reasonably incurred by them in taking those steps; and if that person, having been entitled to appeal to the Scottish Ministers under regulation 25, failed to make such an appeal, he shall not be entitled in proceeding under this paragraph to dispute the validity of the action taken by the planning authority in accordance with the notice:

Provided that where the person who is then the owner or the lessee of the land would have been entitled, under section 165 of the 1997 Act, to compensation in respect of any expenses reasonably incurred by him in removing the advertisement, the planning authority shall not be entitled to recover their expenses from that person.

(2) Any expenses incurred by the owner, the lessee or the occupier of any land for the purpose of complying with an enforcement notice, and any sums paid by the owner or by the lessee of any land in respect of the planning authority in taking steps required to be taken by such a notice, shall be recoverable as a civil debt from the person by whom the display was carried out.

(3) Where a planning authority seek to recover any expenses under this regulation from a person on the basis that he is the owner of any land, and such a person proves:

(a) that he has no interest in the land except in the capacity of a trustee, tutor, curator, factor or agent of some other person; and

(b) that he has not, and since the date of service on him of the demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole of the demand of the authority,

his liability shall be limited to the total amount of the money which he has or has had in his hands as aforesaid; but a planning authority who by reason of the foregoing provisions of this regulation have not recovered the whole of any such expenses from a trustee, tutor, curator, factor or agent may recover any unpaid balance from the person on whose behalf the rent is received.