



# Department for Communities and Local Government

Mr Mark Aplin  
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Our Ref: APP/ADCPO/T2215/014  
Your Ref: DBC/ASAC

21 November 2016

Dear Mr Aplin,

## Town and Country Planning Act 1990

## Town and Country Planning (Control of Advertisements) (England) Regulations 2007

### **APPROVAL OF THE DARTFORD (CONTROL OF ADVERTISEMENTS) AREA OF SPECIAL CONTROL ORDER 2015**

1. I refer to the above Modification Order made by the Council on 22 September 2015 and submitted for approval to the Secretary of State for Communities and Local Government. The Order modifies the Dartford Borough Council Area of Special Control Order 2000 made on 21 July 2000 and approved with modifications in 2004 within the Borough of Dartford, as shown on the attached map.
2. The Secretary of State has considered a report produced by his Inspector S J Papworth dated 4 August 2016 in respect of the Order. A copy of the report is enclosed with this letter.

### REASONS FOR COUNCIL'S PROPOSAL TO MODIFY THE 2000 ORDER

3. The Secretary of State notes that the existing Order is to be modified by the removal of an area of land from the Green Belt for development, as identified in the adopted Dartford Core Strategy 2011. The map appended shows the area which is to be removed from the 2000 Order and is identified with a blue boundary ("the Ebbsfleet area removed").

## INSPECTOR'S RECOMMENDATION

4. The Inspector recommends at paragraph 24 of the attached report that the Order dated 21 July 2000, be modified and agrees that the controls available under the deemed consent provisions of the 2007 Regulations are sufficient to protect the character and appearance of the area being removed from control. Further, the inspector found that there was a continuing need for control of the area which is marked for retention within the area of special control. For the reasons set out in paragraphs below, the Secretary of State agrees with the Inspector's recommendation.
5. The land to be removed from control was removed from the Green Belt by way of the 2011 Core Strategy and construction is now underway on several sites, with a significant number of properties on land to the north of Watling Street already occupied.
6. There were no formal objections, but two informal responses made outside of the consultation period expressed concern that control would not be present for any parkland within the large housing developments that are taking place. The Inspector, however, points out that similar areas included in the 2000 Order do not have additional controls; he is of the view that it is reasonable for such areas to rely on the controls ordinarily available under the 2007 Regulations.
7. The Secretary of State agrees with the Inspector that it is reasonable, where there is parkland in such areas, to rely on the deemed consent control in the 2007 Regulations. This approach is in line with the Government's National Planning Policy Framework, which states additional control over outdoor advertisements should only be considered where advertisements would clearly have an appreciable impact on amenity.
8. The area (black hatched areas on attached map) that the Council wishes to keep under special control is Green Belt land and is commensurate with its designation, the aims of the 2000 Order and the 2015 Statement of Reasons, as modified in November 2015. The Secretary of State, therefore, agrees with the need for special controls to remain, as recommended by the Advertisement Appeals Officer in 2004 and confirmed by the then Secretary of State.
9. As an aside, the Secretary of State notes the Inspector's comments on informal responses, received outside of the consultation period, about concerns expressed by a Parish Council and Residents Association over signs attached to street furniture and agrees that these matters should be addressed by the Council.
10. The Government's planning policy, as set out in the National Planning Policy Framework, makes clear that poorly placed advertisements can have a negative impact on the appearance of the built and natural environment. Dartford Borough Council needs to determine the most appropriate course of action to take if these advertisements are being displayed in contravention of the Regulations.

## FORMAL APPROVAL

11. The Secretary of State for the Department for Communities and Local Government in exercise of the power in regulation 20(2) of, and Part 1 of Schedule 5 to, the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 hereby approves the Dartford Borough Council (Control of Advertisements) Area of Special Control Order 2015 made on 22 September 2015.
12. The Council should now publish a notice, as required by paragraph 8 in Part 1 of Schedule 5 to the 2007 Regulations, that the Order has been approved.

## RIGHT OF APPEAL AGAINST THE DECISION

13. A separate note accompanies this letter (on the next page), setting out the circumstances in which the Secretary of State's decision may be challenged by making an application to the High Court.

Yours sincerely,

  
Robert Segall

Authorised to sign on behalf of the Secretary of State



## **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.

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.





The Planning Inspectorate

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# Report to the Secretary of State for Communities and Local Government

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 4 August 2016

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TOWN AND COUNTRY PLANNING (CONTROL OF ADVERTISEMENTS)  
(ENGLAND) REGULATIONS 2007

DARTFORD BOROUGH COUNCIL

THE DARTFORD (CONTROL OF ADVERTISEMENTS)  
AREA OF SPECIAL CONTROL ORDER 2015

Site visit made on 12 July 2016

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File Refs: APP/ADCPO/T2215/014

## **Introduction**

1. I have been appointed by the Secretary of State for Communities and Local Government to consider the proposal by Dartford Borough Council to modify the Dartford Borough Council Area of Special Control Order 2000 by removing land from that control. The modified Order is to be cited as *'the Dartford (Control of Advertisements) Area of Special Control Order 2015'* and this was made on 22 September 2015.
2. My site visits took place throughout 12 July 2016 in order to understand the nature of the whole 2000 Order area, and therefore included the land that is to remain within the Order, as well as that now proposed to be removed.

## **Background**

3. Regulation 20(1) requires that every local planning authority shall from time to time consider whether any part or additional part of its area should be designated as an area of special control. Regulation 20(2) states that an area of special control shall be designated by an area of special control Order made by the local planning authority and approved by the Secretary of State, in accordance with the provisions of Schedule 5 of the Regulations.
4. Paragraph 68 of the National Planning Policy Framework states that where an area justifies a degree of special protection on the grounds of amenity an Area of Special Control Order may be approved. The paragraph goes on to say that before formally proposing an Area of Special Control, the local planning authority is expected to consult local trade and amenity organisations about the proposal.
5. The Council had contacted local trade and amenity organisations on 10 June 2015 as an informal consultation exercise, stating that the result of the informal consultation would be considered by the Council and an amended Order put before the Secretary of State. Representation was received from Southfleet Parish Council, Bean Parish Council and Bean Residents Association.
6. Schedule 5 Part 1 'Procedure for area of special control orders' states at paragraph 1, that where a local planning authority proposes (a) to designate an area of special control; or (b) to modify an area of special control order, it shall make an area of special control Order designating the area or indicating the modifications by reference to a map annexed to the order. Paragraph 3 sets out the process for submitting to the Secretary of State and paragraph 4 sets out the need for a Notice to be published in the London Gazette and a local newspaper. Paragraph 10 states that where a local planning authority proposes to make an order revoking an area of special control order, a map showing the area then subject to special control shall be annexed to the order.
7. Notices had been placed in the London Gazette of 15 October 2015 and in the Dartford Recorder on 8 and 15 October 2015, as required by Schedule 5(1) paragraph 4 of the Regulations.
8. No objections have been made to the Order as part of the formal process that ended on 6 November 2015.

## **The 2000 Order and the Modifications Proposed in the 2015 Order**

9. The original Order is the '*Dartford Borough Council Area of Special Control Order 2000*'. The Order was made by the Council on 21 July 2000 proposing that the area of the Borough shown as Metropolitan Green Belt on the proposals map of the adopted Dartford Borough Local Plan should be subject to special control.
10. A survey of the proposed Area of Special Control was undertaken on 8 and 9 January 2001 and a report was produced by the appointed Advertisement Appeals Officer from the Planning Inspectorate. In his report he recommended that the Council reassess the suitability of including certain developed parts of the area proposed for inclusion within the Order.
11. Based on those observations, the Council subsequently carried out a reassessment and another Advertisement Appeals Officer was appointed from the Planning Inspectorate to undertake an appraisal of specific areas of the Borough where the Council had submitted modifications to the Order. Visits to these areas were carried out on 28 April 2004 and a Report dated 4 May 2004 was made to the First Secretary of State making recommendations as to exclusions and inclusions.
12. The 2015 Order proposes removing areas edged blue on the sealed plan, whilst retaining those areas hatched black, with the Council area boundary edged black.

## **The Council's Statement of Reasons for Making the Order**

13. There had been an earlier version of the Council's Statement of Reasons which made reference to the land being within the Ebbsfleet Development Corporation area, and following confirmation from the Council of which version should have been attached to the sealed Order and Map, it was agreed that the version to be attached is the one that reads;

*It appears to The Dartford Borough Council that the Dartford Borough Council Area of Special Control Order 2000 should be modified to take into account changes, including to the Green belt boundary. It is proposed that the modified order be known as 'The Dartford (Control of Advertisements) Area of Special Control Order 2015'.*

*The modification proposes that:*

1. *Eastern Quarry/St Clements Valley lands north of Watling Street (shown edged blue on the Map at the Annex to the Order) be excluded from the Area of Special Control by reason that the lands have been removed from the Green Belt for development as identified in the adopted Dartford Core Strategy 2011. As the Green Belt focus remains appropriate for the Area of Special Control, the lands do not now meet the criteria for special control.*
2. *The extent of land hatched on the Map covered by the Area of Special Control:*
  - (a) *is consistent with legislation and policy, given its rural character and the particular need in the area shown for special protection of amenity in the Borough of Dartford;*
  - (b) *is wholly Green Belt land; and*

(c) *further objectives to maintain rural character and openness in the Borough of Dartford through the Area of Special Control*

14. The matters clarified by the Council prior to writing this Report are set out in an e-mail dated 25 July 2016.

### **The Stricter Controls that Apply in an Area of Special Control of Advertisements**

15. Paragraph 21 of the 2007 Regulations sets out the control in an Area of Special Control, there is a lower maximum height, and a smaller maximum size of letters and characters, on many advertisements displayed with 'deemed consent'. Some types of advertisements that would otherwise benefit from deemed consent are excluded and instead require 'express consent', namely those advertisements within Classes 4A, 4B and 8 of Schedule 3 of the Regulations.

### **Analysis and Conclusions**

16. This is not an entirely new Order, but one that seeks to modify the year 2000 Order which, as set out previously, was the subject of two Reports by Advertisement Appeals Officers from the Planning Inspectorate, the first recommended that the Council reassess the suitability of including certain developed parts of the proposed area, and the second considered the modifications and recommended exclusions and additional inclusions.
17. There are two parts to be considered; the omissions of the blue-edged land, and the appropriateness of retaining control in the black hatched land;

#### *Blue Edged Land for Omission*

18. The land was removed from the Green Belt by way of the 2011 Core Strategy and shown on Map 4, page 144.
19. It is clear from visiting the lands that development is now proceeding. In the case of land between the B255 (St Clements Way) and the A2260/B259 (Southfleet Road) known as Eastern Quarry there was a site just north of Watling Street that was in the early stages of construction, whereas to the north there was a significant number of properties already occupied with construction proceeding to the west of them. To the west of the B255 (St Clements Way) and south of the A226 (London Road), known as St Clements Valley, development was progressing.
20. There have been no formal objections, but the informal responses made reference to the possibility of there being parkland within such large housing developments and it was apparent during the visit to those areas that open space is an integral part of the design and layout. However, that would be true of other areas that were not within the year 2000 Order lands, which was based on Green Belt designation. It is reasonable in such areas to rely on the control ordinarily available through the 2007 Regulations, with deemed consent being available, and such an approach would be in line with the statement in paragraph 67 of the Framework that control over outdoor advertisements should be efficient, effective and simple in concept and operation. Only those advertisements which will clearly have an appreciable impact on a building or on their surroundings should be subject to the local planning authority's detailed assessment.

21. Whilst there are good reasons to remove the blue edged land from the Order as proposed, the concerns expressed by the Parish Councils and the Residents Association over signs attached to street furniture should be addressed through enforcement or other legislation.

*Black Hatched Land for Retention of Control*

22. This remains as recommended by the Advertisement Appeals Officer in 2004 and confirmed by the Secretary of State. It is referred to in the Council's Statement of Reasons as being wholly Green Belt land, and on inspection by way of an extensive tour of the hatched area, appears to display a rural character and openness commensurate with Green Belt designation, the aims of the 2000 Order and the 2015 Statement of Reasons with regard to the need for special control.
23. Again, there have been no formal objections, but the responses to the informal consultation did refer to Green Belt land and problems that persist. There is clearly a continuing need for control, as well as enforcement in particular cases as cited in the representation.

**Recommendation**

24. I recommend that the Secretary of State approve the Dartford (Control of Advertisements) Area of Special Control Order 2015 without modification.

*S J Papworth*

INSPECTOR

