

SCHEDULE 4

Regulations 8(2), 14(2), 15(2) and 16(2)

PART 2

SECTIONS 40, 43, 44, 58, 59, 60, 68 AND 70 OF THE PLANNING ACT (NORTHERN IRELAND) 2011 AS MODIFIED

Form and content of applications

- 40.—(1) Any application for consent to display an advertisement—
- (a) must be made in such form and in such manner as may be specified by the Planning (Control of Advertisements) Regulations (Northern Ireland) 2015;
 - (b) must include such particulars, and be verified by such evidence, as may be required by the Regulations or by any directions given by a council or the Department under the Regulations.
- (2) A direction under subsection (1)(b) must not be inconsistent with the Regulations.

Notice requiring application for consent to be made

43.—(1) Where it appears to a council that any advertisement has been displayed without the grant of consent for the display of an advertisement required in that behalf the council may issue a notice under this section requiring the making of an application for such consent to the council within 28 days from the service of the notice.

(2) A notice under this section may be issued only within the period of 10 years from the date on which the advertisement to which it relates was first displayed.

(3) A notice under this section must specify the advertisement to which the notice relates.

(4) A copy of a notice under this section must be served on the person displaying the advertisement.

(5) Where a copy of a notice under this section has been served on the person referred to in subsection (4), then if the application referred to in the notice is not made to the council within the period allowed for compliance with the notice, that person shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) If, after a person has been convicted under subsection (5), the application referred to in the notice under this section is not made to the council, that person shall be guilty of a further offence and liable on summary conviction to a fine not exceeding one tenth of level 3 on the standard scale for each day following his first conviction on which the offence continues.

(9) The council may, at any time before the end of the period allowed for compliance with a notice under this section, withdraw the notice.

(10) If it does so the council must as soon as is reasonably possible give notice of the withdrawal to every person who was served with a copy of the notice.

(11) Any reference in this section and section 44 to the period allowed for compliance with a notice under this section is a reference to the period mentioned in subsection (1) or such extended period as may be allowed by the council for compliance with the notice.

(12) For the purposes of this section an application to the council for any consent shall not be taken to be made unless it is accompanied by the fee prescribed under section 223 in relation to that application.

Appeal against notice under section 43

44.—(1) A person on whom a copy of a notice has been served under section 43 may, at any time before the end of the period allowed for compliance with that notice, appeal to the planning appeals commission against the notice.

(2) An appeal may be brought on any of the following grounds—

- (a) that the display of the advertisement referred to in the notice does not require consent;
- (b) that no advertisement has been displayed as alleged in the notice;
- (c) that the period of 10 years referred to in section 43(2) had elapsed at the date when the notice was issued.

(3) An appeal under this section shall be made by notice in writing to the planning appeals commission and such notice shall indicate the grounds of the appeal and state the facts on which it is based.

(4) Before determining an appeal under this section, the planning appeals commission must, if either the appellant or the council so desires, afford to each of them an opportunity of appearing before and being heard by the commission.

(5) Where an appeal is brought under this section the notice shall be of no effect pending the final determination or the withdrawal of the appeal.

(6) On an appeal under this section the planning appeals commission—

- (a) must quash the notice, vary the terms of the notice or uphold the notice;
- (b) may correct any informality, defect or error in the notice, or vary its terms, if it is satisfied that the correction or variation can be made without injustice to the appellant or to the council.

(7) The validity of a notice under section 43 shall not, except by way of an appeal under this section, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought.

Appeals

58.—(1) Where an application is made to a council for consent for the display of an advertisement then if that consent is refused or is granted subject to conditions, the applicant may by notice in writing appeal to the planning appeals commission.

(3) Any notice under this section must be served on the planning appeals commission within 4 months from the date of notification of the decision to which it relates or such other period as may be specified by the Planning (Control of Advertisements) Regulations (Northern Ireland) 2015.

(4) Where an appeal is brought under this section from a decision of a council, the planning appeals commission may allow or dismiss the appeal or may reverse or vary any part of the decision whether the appeal relates to that part thereof or not and may deal with the application as if it had been made to it in the first instance.

(5) Before determining an appeal under this section, the planning appeals commission must, if either the applicant or the council so desires, afford to each of them an opportunity of appearing before and being heard by the commission.

(6) If at any time before or during the determination of an appeal under this section it appears to the planning appeals commission that the appellant is responsible for undue delay in the progress of the appeal, it may—

- (a) give the appellant notice that the appeal will be dismissed unless the appellant takes, within the period specified in the notice, such steps as are specified in the notice for the expedition of the appeal; and

- (b) if the appellant fails to take those steps within that period, dismiss the appeal accordingly.

Matters which may be raised in an appeal under section 58

59.—(1) In an appeal under section 58, a party to the proceedings is not to raise any matter which was not before the council at the time the decision appealed against was made unless that party can demonstrate to the satisfaction of the planning appeals commission—

- (a) that the matter could not have been raised before that time, or
 - (b) that its not being raised before that time was a consequence of exceptional circumstances.
- (2) Nothing in subsection (1) affects any requirement or entitlement to have regard to—
- (a) the provisions of the local development plan, or
 - (b) any other material consideration.

Appeal against failure to take planning decision

60.—(1) Where any such application as is mentioned in section 58(1) as applied and modified by the Planning (Control of Advertisements) Regulations (Northern Ireland) 2015 is made to a council, then unless within such period as may be specified by the Regulations, or within such extended period as may be agreed upon in writing between the applicant and the council, the council gives notice to the applicant of its decision on the application, section 58 shall apply in relation to the application—

- (i) as if the consent to which it relates had been refused by the council; and
- (ii) as if notification of the council's decision had been received by the applicant at the end of the period so specified, or at the end of the said extended period, as the case may be.

Revocation or modification of express consent by council

68.—(1) If it appears to a council that it is expedient to revoke or modify any consent for the display of an advertisement, the council may, subject to subsections (3) and (4), by order revoke or modify the consent to such extent as it considers expedient.

(2) Without prejudice to the generality of subsection (1), a council may have regard to any material change in circumstances that has occurred since the consent was granted.

(3) The power conferred by this section to revoke or modify consent for the display of an advertisement may be exercised—

- (a) where the consent relates to a display which involves the carrying out of building or other operations, at any time before those operations have been completed;
- (b) in any other case, at any time before the display of the advertisement has begun;

except that the revocation or modification of consent for a display which involves the carrying out of building or other operations shall not affect so much of those operations as has been previously carried out

- (a) (4) (a) Where the council makes an order under this section it must serve a notice on —
 - (i) the person who applied for the consent;
 - (ii) the owner and occupier of the land affected; and
 - (iii) any other person who, in its opinion, would be affected by the order;
- (b) the order shall take effect on the day after that on which the council complies with the requirements of paragraph (a).

Procedure for section 68 orders: opposed cases

70.—(1) An order under section 68 shall not take effect unless it is confirmed by the Department.

(2) Where a council submits such an order to the Department for confirmation, it must serve notice on—

- (a) the person who applied for the consent;
- (b) the owner and occupier of the land affected; and
- (c) any other person who, in its opinion, would be affected by the order.

(3) The notice must specify the period within which any person on whom it is served may require the Department to give that person an opportunity of appearing before, and being heard by, the planning appeals commission.

(4) If within that period such a person so requires, before the Department confirms the order it must give such an opportunity both to that person and to the council.

(5) The period referred to in subsection (3) must not be less than 28 days from the service of the notice.

- (a) (6) (a) The Department may confirm an order submitted to it under this section either without modification or subject to such modifications as the Department considers expedient;
- (b) without prejudice to the generality of paragraph (a), in considering whether to confirm an order submitted to it under this section, the Department —
 - (i) may have regard to any material change in circumstances that has occurred since the consent was granted;
 - (ii) where a hearing is held under subsection (3), the Department shall consider the report of the commission.