

Development Services  
The Planning Office,  
61 Wyndham Road,  
Salisbury  
SP1 3AH

*officer to contact:* Stephen Hawkins  
*direct line:* 01722 434691  
*email:* shawkins@salisbury.gov.uk  
*web:* www.salisbury.gov.uk

# Enforcement Report

**Report subject:** Freestanding directional sign on the south side of the A303, Charnage Down, Mere.  
**Report to:** Western Area Committee.  
**Date:** 19<sup>th</sup> July 2007.  
**Author:** Stephen Hawkins, Principal Planning Officer (Enforcement)

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## Report Summary

To consider whether it is necessary to serve a discontinuance notice in respect of the above sign.

This matter is being brought before Members as the Head of Development Services does not have the authority to authorize service of a discontinuance notice under delegated powers.

## Introduction

The site relates to part of a field immediately adjacent to the westbound carriageway of the A303, to the north of West Hill Farm, close to the junction with the lane leading to Charnage.

The site is within the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty and in an Area of Special Advertisement Control. The site is actually in the Parish of West Knoyle, close to the boundary with that of Mere.

The Council first received an enquiry regarding display of a sign at this site advertising the Old Ship Hotel in October 2001. During further enquiries Mere Town Council as well as the then proprietor of the Hotel advised the Council that a sign advertising the Old Ship Hotel in Mere had been situated in the field for 'at least 40 years.'



Awarded in:  
Housing Services  
Waste and Recycling Services



The unauthorized display of a sign on a site which was nevertheless used for the display of advertisements prior to 1<sup>st</sup> April 1974 and where there had been no substantial increase in the extent or alteration in the manner of the use of the site for display of advertisements, benefited from 'deemed consent' under Class 13 of the then operative Control of Advertisement Regulations 1992. The Council's enquiry in respect of this sign was therefore discontinued.

Two additional unauthorized signs, one advertising a tourist attraction and another local housing development, were removed in November 2001 following negotiation.

In August 2006, the Council received an enquiry regarding the display of a new sign on the site of that of the Old Ship Hotel, advertising a Somerset tourist attraction (Wookey Hole). The sign, which appeared to be attached to the same supporting framework as the previous Hotel sign, represented a substantial enlargement over the size of the Hotel sign previously displayed, which itself appeared to have been replaced and increased in size sometime between September 2001 and August 2006.

The Council concluded that the extent of the use of the site for displaying advertisements had increased substantially and that advertisement consent was required to display the sign. In January 2007 the advertiser undertook to replace the sign with a more modest sign of similar size to the preceding Old Ship Hotel sign. In March this year it was noted that the sign had been replaced with a smaller sign of a similar size and displayed at a similar height as the preceding Old Ship Hotel sign (which in fact appears to be still present behind the new sign), following which it was concluded that display of the new sign still benefited from 'deemed consent' under the then Regulations.

Two other signs displayed in the same locality- advertising a local public house and a local tourist attraction were subsequently removed, in one case one of which following refusal of express consent (see below). One of these signs has recently been replaced and a separate investigation is therefore being pursued in that regard.

The 1992 Regulations have recently been replaced by the Town and Country Planning (Control of Advertisements) (England) (Regulations) 2007. Class 13 of the new Regulations grants deemed consent, subject to conditions and limitations to an advertisement displayed on a site used for the preceding ten years for display of advertisements without express consent. In order to benefit from deemed consent, there must not have been an increase in the extent to which the site has been used for the display of advertisements or a material alteration in the manner in which it has been so used during the ten –year period.

## **Planning History**

S/06/2380 –erect free standing directional sign in field. Refused 2<sup>nd</sup> January 2007.

## **Response to consultations**

AONB Officer: Refers to the statutory emphasis on conservation of the AONB landscape and the aims and objectives of the AONB Management Plan. Considers that the sign does not contribute to the rural scene or the conservation and enhancement of the natural beauty of the AONB. It does not relate to a facility in this AONB so does not contribute to its rural economy. It has contributed to urbanisation of the roadside and the AONB are strongly against retention of such signs (summary).

Highways Agency: The Highways Agency is particularly concerned that the position of this sign, at a location where a 60mph speed limit applies would make it difficult for drivers to read without slowing down.

The sign contains images and several lines of text and therefore has the potential to distract the attention of motorists. This could result in an increased risk of an accident occurring on this busy section of the A303 trunk road.

Had the Highways Agency been consulted about this advertisement we would have recommended refusal on the grounds of trunk road safety.

Support taking discontinuance action to secure removal of the sign.

### **Policy context**

In exercising its powers under the Advertisement Regulations, the Council does so only in respect of 'amenity; and 'public safety.' However, recent changes introduced by the 2007 Regulations have the effect that when exercising these powers, the Council can now take in to account the provisions of the Development Plan, so far as they are material.

Policies G11, C1, C2, C4 and C5 would be relevant to development proposals, advertisements and the AONB. In particular:

Policy G11 states that a sign advertisement will be permitted provided that:

- i. It is appropriate in size, colour, materials, lettering and height to its surroundings; and*
- ii. It will not detract from the visual amenity of the area or have an unacceptable effect on the local landscape.*

Policy C2 strictly limits development in the countryside to that which benefits the local economy and maintains or enhances the environment.

Policy C4 states that development will not be permitted if it would harm the natural beauty of the landscape.

Policy C5 states that within the AONB, small scale development proposals will only be permitted where they are in accordance with the policies of the Local Plan and provided:

- i. The siting and scale of the development are sympathetic with the landscape of the AONB in general and of the particular locality; and*
- ii. Standards of landscaping area high, using materials which are appropriate to the locality and reflect the character of the area.*

*Regard should also be had to the social and economic well-being of the area.*

Planning Policy Guidance Note no.19 "Outdoor Advertisement Control" describes the considerations of 'amenity' and 'public safety' in more detail.

## Considerations

### Whether display of the sign requires express consent under the Advertisement Regulations

In determining the whether the current sign benefits deemed consent under the 2007 Regulations, it is first necessary to consider the extent of the use of *the site* (the site being the parcel of land on which the sign is situated as opposed to the sign itself) for the display of advertisements has materially increased.

The current sign whilst similar in size to the previous Hotel sign, represents an enlargement over the sign displayed in 2001, possibly by up to a third.

Whilst the matter is not entirely clear-cut, it is considered that, as a matter of fact and degree, the increase in the size of the current sign over that displayed historically is relatively modest and it has not resulted in a material increase in the use of the site for display of advertisements. Furthermore it is considered that the current sign, which like the 2001 sign is not illuminated and is displayed in a similar position, has also not materially altered the *manner* in which the site has been used has been used for the display of advertisements.

Overall the conclusion on balance is that display of the current sign therefore still benefits from deemed consent under the Regulations.

The location of the site within an Area of Special Control of Advertisements, does not affect the conclusion that the sign does not need express consent.

The above all has the effect that the existing sign or one of similar size/method of display could remain indefinitely at the site, without the need for any consent from the Council, unless discontinuance action was considered necessary.

### Effect on amenity

The site lies in open attractive undulating open countryside within the AONB, forming part of a wider area of open chalk downland characteristic of the landscape of this part of the AONB.

The sign is in a valley and is largely viewed against a background of rising land and vegetation as well as the A303 and the adjoining lane. However the sign by reason of its prominent siting, size and the overall height at which it is displayed, together with the use of bold and strident colours in its graphics, does not pay any regard to the naturalistic landform or muted colours of the surrounding countryside. It therefore appears as an unduly alien and discordant feature in the otherwise attractive and relatively unspoilt rural surroundings, seriously detracting from the visual amenities of the locality.

To allow the sign to remain would therefore conflict with the objectives of Development Plan policies, in particular those referred to in detail above.

### Effect on public safety

The sign is situated on the southern side of the A303, presumably to attract the attention of drivers on the westbound carriageway, heading towards Somerset. The Highways Agency support removal of the sign, on the grounds that it distracts drivers. As such, it is considered that the sign represents a danger to highway safety.

### Human Rights

Discontinuance action will interfere with the owner and advertiser's rights under Article 1 (1), of the European Convention on Human Rights. However having regard to the harm to the countryside, the AONB, the adverse impact on traffic safety and harm to the objectives of Development Plan policies described above the balance of considerations is that such interference is justified in the public interest and is also considered minimal and proportionate to the breach.

### Financial issues

There would be no compensation payable in respect of discontinuance action by the Council, unless it could be proved that the site was in use for the display of advertisements prior to 1<sup>st</sup> August 1948. Such compensation would be limited to expenditure incurred in ceasing the use-i.e. works involved in removal of the sign. Any claim has to be submitted within six months from completion of the works.

However, persons served with a discontinuance notice have a right of appeal to the Secretary of State. There could also be a costs' implication in the event that the Council were found to have acted unreasonably in issuing the Notice.

### **Conclusion**

The existing sign benefits from deemed consent and could remain in situ unless discontinuance action were taken.

However, the sign is considered to be seriously detrimental to the visual amenities of the surrounding area, which is in open countryside within an Area of Outstanding Natural Beauty and is also considered detrimental to highway safety conditions on the A303.

To allow the sign to remain would therefore conflict with the objectives of Development Plan policies, in particular those referred to in detail above.

The presence of an unauthorised sign in the same field advertising another business, is not considered to justify further retention of this sign.

Discontinuance action is therefore recommended as being necessary to remedy the substantial injury to amenity and danger to public safety caused by the sign.

**RECOMMENDATION:** That the Head of Legal & Property Services be authorised to serve a Discontinuance Notice under the Town and Country Planning (Control of Advertisements) Regulations 2007, on the appropriate persons (to include the advertiser and the owner and occupier of the site on which the advertisement is displayed), requiring that the use of the site for the display of an advertisement should cease, for the following reasons:

1. The sign, by reason of its prominent siting, size and height of display and its use of bold and strident colours, pays little regard to the naturalistic landform or muted colours of the surrounding countryside, which lies within the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty and appears as an unduly alien and discordant feature in the otherwise attractive rural surroundings, seriously detracting from the visual amenities of the locality. To retain the sign would also therefore conflict with the objectives of policies G11, C2, C4 & C5 of the adopted Salisbury District Local Plan. Furthermore the sign represents an undue distraction to drivers and as such, it is considered that its continuing presence represents a danger to highway safety conditions on the A303. The Local Planning Authority are therefore satisfied that it is necessary to serve the Notice so that the use of the site for the display of an advertisement with deemed consent under Class 13 of Schedule 3 to the Town and Country Planning (Control of Advertisements) Regulations 2007 is discontinued, within the period specified below.

**Time For Compliance: -**

**8 weeks**

#### **Implications**

- **Financial: See above.**
- **Legal: Detailed in the report.**
- **Environmental implications: Detailed in the report.**
- **Council's Core Values: Excellent service; fairness and equal opportunity for all.**
- **Wards Affected: Knoyle.**
- **Human Rights: Detailed in the report.**