

Appeal Decision

Site visit made on 23 September 2016

by F Rafiq BSc (Hons), MCD, MRTPI

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

Decision date: 21 October 2016

Appeal Ref: APP/B4215/H/16/3150361

Advertising Hoardings, 831 Ashton Old Road, Manchester, M11 2NL

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (Regulations) against conditions imposed when granting express consent.
 - The appeal is made by Mr Ben Porte (Insite Poster Properties) against the decision of Manchester City Council.
 - The application Ref 111557/AOH/2016/N2 is dated 10 March 2016. The conditions in dispute are No 1 and 3(c) which state that:
Condition 1: "The development must be begun not later than the expiration of three years beginning with the date of this permission".
Condition 3(c): "On the date of the expiry of the express consent period in (a) above the advertisement hoarding(s) and all associated development shall be removed, any use of the land authorised by this consent shall be discontinued, and the land/building shall be reinstated in accordance with a scheme previously approved".
 - The reasons given for the conditions are:
Condition 1: "Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990".
Condition 3(c): "To enable the City Council to consider the acceptability of the continuance of the display of the advertisement hoardings(s) at the site on the expiry of the period of express consent, having regard to visual amenity and changing circumstances in the locality in order to comply with saved policies DC15.1 and DC15.2 of the Unitary Development Plan for the City of Manchester and policies SP1 and DM1 of the Core Strategy".
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Decision

1. The appeal is allowed and the advertisement consent Ref 111557/AOH/2016/N2 for the installation of 2 no. freestanding illuminated 48 sheet digital display advertisements to replace existing 2 no. illuminated advertisements at Advertising Hoardings, 831 Ashton Old Road, Manchester, M11 2NL granted on 9 May 2016 by Manchester City Council is varied by deleting conditions 1 and 3(c).

Main Issue

2. The main issue is whether the conditions are reasonable and necessary in the interests of amenity and public safety.

Reasons

3. The imposition of condition 3(c) has the effect of removing a right set out in Class 14 in Schedule 3 of the Regulations for the display of an advertisement after the expiry of the express consent. I note that the time period granted for the display of the advertisement was related to the time period specified in the
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application form and that the appellant does not dispute the 5 year period for the express advertisement consent. Nevertheless, the disputed element of this condition requires the removal of the advertisements and associated development on the expiry of the express consent period.

4. The Council make reference to Part 3 (Express Consent) of the Regulations, which at Paragraph 14-(1)(a) does allow the authority to '*grant consent, in whole or in part, subject to the standard conditions and, subject to paragraphs (6) and (7), to such additional conditions as it thinks fit*'. However, and despite the absence of any justification from the appellant for the retention of the advertisement beyond the five year time period, the Planning Practice Guidance at Paragraph 034 states that where a Local Planning Authority decides to impose additional conditions to the standard conditions in the Regulations, these must be supported by specific and relevant planning reasons.
5. The Council state that they consider it appropriate for a degree of control to be maintained over a temporary structure in a prominent location with future development and regeneration potential. I have however been provided with no information on current or future regeneration proposals that may effect the appeal site, the adjacent sites or the area around it, other than a reference to the site's location on a City Centre radial route, which with reference to saved Policy E3.3 of the Council's Unitary Development Plan (UDP), is said to require the City Council to seek to upgrade the appearance of major radial and orbital routes. Whilst I note the Council's reasoning that the imposition of the subject condition provides for future dialogue between the Council and advertising companies, there is however nothing to prevent the Council taking discontinuance action in the event this became necessary.
6. I therefore do not consider that condition 3(c) is necessary. Deleting this condition would not conflict with saved Policies DC15.1 and DC15.2 of the UDP and Policies SP1 and DM1 of the Council's Core Strategy. Whilst I have taken them into account as material considerations, the power to control advertisements under the regulations may be exercised only in the interests of public safety and amenity and consequently, this matter has not been decisive, in itself, in the determination of this appeal.
7. The appellant has also raised concerns in relation to condition 1 which they state is not reasonable or necessary and should therefore be removed. The Council's reasoning for the condition refers to Section 91 of the Town and Country Planning Act 1990. However Section 220 of this Act specifically excludes Section 91 of the Act for advertisement consents. This condition is therefore not necessary, as the advertisement consent began on the date of the granting of the original decision and this decision modifies the existing consent.
8. For the reasons given above and having considered all other matters raised, I conclude the appeal should be allowed. I shall therefore delete both condition 1 and condition 3(c).

F Rafiq

INSPECTOR