
Appeal Decision

Site visit made on 20 March 2017

by Alexander Walker MPlan MRTPI

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

Decision date: 7th April 2017

Appeal Ref: APP/N5660/H/16/3155793
6-12 Kennington Lane, London SE11 4LT

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against conditions imposed when granting express consent.
- The appeal is made by Mr Richard Page of Insite Poster Properties against the decision of the Council of the London Borough of Lambeth.
- The application Ref 16/03285/ADV is dated 31 May 2016. The conditions in dispute are Nos 7 and 11 which state that:
(7) Upon the expiry of this consent, any advertisements hereby approved shall be removed and the use of the site for the display of advertisements shall be discontinued, and the advertisements hereby permitted shall not benefit from deemed consent under Class 14 in Part 1 of Schedule 3 to the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
(11) Notwithstanding the details of the application, hereby approved, the proposed illuminated signs must not have any intermittent light source, moving feature, animation or exposed cold cathode tubing. They must not move, flash or change colour in any way and no special visual effects of any kind are permitted during the time that any message is displayed. The displayed image must not include animated, flashing, scrolling, intermittent or video elements and no visual effects of any kind to be permitted to accompany the transition between any two successive messages. The replacement image must not incorporate any fading, swiping or other animated transitional method. The minimum time between successive displayed images shall be 15 seconds.
- The reasons given for the conditions are:
(7) To ensure the advertisements are removed following the expiry of the consent and allow an opportunity to monitor the site and surrounding for any adverse impacts upon the operation of the highway, and review the cumulative impact of advertisements on visual amenity in a potentially changing area (Policies T6, Q17 and Q22 of the London Borough of Lambeth Local Plan (2015)).
(11) In the interests of highway safety, visual amenity and to comply with Schedule 2 of Part 5 of the Town and Country Planning (Control of Advertisement) (England) Regulations 2007 and London Borough of Lambeth Local Plan (2015) Policy Policies Q2, Q17 and T6).

Decision

1. The appeal is allowed and the advertisement consent Ref 16/03285/ADV for the replacement of existing backlit advertising hoarding for the display of a static internally illuminated LED screen at 6-12 Kennington Lane, London SE11 4LT granted on 28 July 2016 is varied by deleting condition 7 and deleting condition 11 and substituting it for the following condition:

“(11) Notwithstanding the details of the application, hereby approved, the proposed illuminated signs must not have any intermittent light source,

moving feature, animation or exposed cold cathode tubing. They must not move, flash or change colour in any way and no special visual effects of any kind are permitted during the time that any message is displayed. The displayed image must not include animated, flashing, scrolling, intermittent or video elements and no visual effects of any kind to be permitted to accompany the transition between any two successive messages. The replacement image must not incorporate any fading, swiping or other animated transitional method. The minimum time between successive displayed images shall be 10 seconds."

Main Issue

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

Reasons

Condition 7

3. The approved scheme is for the replacement of an existing backlit advertisement with an LED advertisement of the same dimensions. In their consideration of the application, the Council found that the advertisement would not have any significantly harmful effect on amenity and public safety.
4. Planning Practice Guidance (the PPG) states that if a local planning authority decides to impose additional conditions to the standard conditions, these must be supported by specific and relevant planning reasons. Furthermore, it states that conditions should never be imposed because the local planning authority wishes, as a matter of general policy, to prevent the operation of Class 14 in Schedule 3 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007¹.
5. The Council have not provided any justification as to why, after the expiration of five years, the locality would have changed so significantly that the approved advertisement would harm amenity or public safety. Therefore, it fails to accord with the PPG. Furthermore, powers are already available to the Council to serve a discontinuance notice following the expiration of the express consent.
6. In the absence of any sufficient justification and due to the existing powers available to the Council, I find that condition 7 is neither reasonable nor necessary. I shall amend the express consent accordingly by deleting condition 7.

Condition 11

7. The appellant confirms that express consent has already been granted² for a similar LED advertisement to replacement the existing advertisement, although it would be landscape orientated rather than portrait. The approved advertisement included a minimum time between successive displayed images of 10 seconds. No conditions were imposed on this consent restricting the minimum time between successive displayed images.

¹ Planning Practice Guidance, Paragraph: 034 Reference ID: 18b-034-20140306

² LPA ref 15/03674/ADV

8. The appeal site is adjacent to a road and there are residential properties on the opposite side. Due to the proximity of the advertisement to the road and neighbouring residents a condition restricting the minimum time between the display of images is necessary in the interests of safeguarding residential amenity and public safety.
9. Notwithstanding the above, the advertisement would only be visible in oblique views from the nearby residential properties. Given the limited views, I do not consider that the difference of five seconds between the display of images would have a discernible effect on the living conditions of the occupants of these properties. In addition, whilst the sign would be readily visible to highway users travelling along Kennington Lane, I do not consider that the change in images every 10 seconds would be so distracting as to represent a danger to highway safety. Moreover, as express consent has already been granted for a similar advertisement with a permitted rate of change of 10 seconds there is no evidence why the advertisement which is the subject of this appeal would result in any greater harm to amenity and public safety.
10. I find therefore that restricting the minimum time between successive displayed images to 15 seconds is neither reasonable nor necessary and amend the express consent by varying condition 11 by substituting the reference to '15 seconds' for '10 seconds'.

Alexander Walker

INSPECTOR