

Appeal Decision

Site visit made on 23 May 2017

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 26 May 2017

Appeal Ref: APP/Z4310/H/17/3169537

Advertising site along Great Howard Street, Liverpool, L5 9TZ

- 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 Thomas Johnston (JC Decaux UK) against the decision of Liverpool City Council.
 - The application Ref 16A/2745 is dated 13 October 2016.
 - The condition in dispute is No 1 which states that: "The express advertisement consent hereby granted shall be for a period of 5 years from the date hereof and upon expiry of the period of consent the advertisement and all associated development shall be removed and use of the land authorised by this consent discontinued unless further consent to display advertisements has been granted by the Local Planning Authority".
 - The reason given for the condition is: "It is in accordance with Regulation 14 of the Town and Country Planning (Control of Advertisements) Regulations 2007."
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Decision

1. The appeal is allowed and the advertisement consent Ref 16A/2745 for "To remove two illuminated displays (1 internal, 1 external) and install two internally illuminated digital advertisements" at the advertising site along Great Howard Street, Liverpool, L5 9TZ, granted on 22 December 2016 by Liverpool City Council is varied by deleting Condition 1 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect.

Background and Main Issue

2. Express consent for two internally illuminated digital advertisements was granted subject to a condition limiting the consent to 5 years with the requirement that the advertisements are removed at the end of the 5 year period unless further express consent has been given.
3. The main issue, therefore, is whether the condition is necessary in the interests of amenity or public safety.

Reasons

4. Regulation 14 of the Town and Country Planning (Control of Advertisements) Regulations 2007 states that an express consent shall be subject to the condition that it expires at the end of – (a) such period as the local planning authority may specify in granting the consent; or (b) where no period is so specified, a period of 5 years. The condition subject of this appeal does not
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have a proper reason for its imposition; the “reason” simply refers to the power that allows the condition to be imposed, i.e., Regulation 14.

5. The Council has referred to Town and Country Planning (Control of Advertisements) (England) Regulations 2007: Circular 03/2007 in its statement. However, this publication was withdrawn on 7 March 2014 and does not form current planning policy.
6. The National Planning Practice Guidance (PPG) advises that all advertisements are subject to standard conditions and if a local planning authority decides to impose additional conditions, these must be supported by specific and relevant planning reasons. It says that additional 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, which gives deemed consent to advertisements displayed after the expiry of express consent.¹
7. Regulation 8 allows a local planning authority to serve a notice requiring the discontinuance of (a) the display of an advert for which there is deemed consent, or (b) the use of a site for the display of the adverts for which there is deemed consent. This power can be used to remedy a substantial injury to the amenity of the locality, or to remedy a danger to members of the public caused by the display.
8. By granting consent, the Council clearly think the adverts are acceptable. The Council argue that it wishes to reconsider the impacts of the display after the 5 year period because Great Howard Street is included within the World Heritage Site Buffer Zone (WHSBZ) and the site and its surroundings have potential for future redevelopment. However, I have nothing to lead me to believe that the future development of the site and its surroundings are a firm prospect. Neither do I have anything to lead me to believe that the adverts would affect the WHSBZ in a different way after the 5 year period. Even if something were to change in the vicinity of the site, the Council could serve a discontinuance notice. For these reasons, I do not have specific and relevant planning reasons for the imposition of Condition 1 and the imposition of the condition is, therefore, contrary to the PPG.

Other Matters

9. The Council has drawn my attention to the policies they consider to be relevant to this appeal and I have taken them into account as a material consideration. However, powers under the Regulations to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. In my determination of this appeal, the Council’s policies have not therefore, by themselves, been decisive.

Conclusion

10. I conclude that the condition is not necessary in the interests of amenity or public safety and the appeal is allowed.

Siobhan Watson

INSPECTOR

¹ Paragraph: 034 Reference ID: 18b-034-20140306