



Appeal Decision

Site visit made on 18 June 2019

by **C J Ford BA (Hons) BTP MRTPI**

a person appointed by the Secretary of State

Decision date: 18th July 2019

Appeal Ref: APP/Q5300/Z/18/3213110

Public footpath outside 321A Bowes Road, Enfield N11 1BA

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 ('the Regulations') against conditions imposed when granting express consent.
- The appeal is made by British Telecommunications Plc against the decision of the Council of the London Borough of Enfield.
- The application Ref 18/02564/ADV is dated 26 June 2018. The condition in dispute is No 1 which states that:

1 (1) This consent permits the display of the advertisement(s) for a period of five years beginning with the date of this notice, after this period the use of the site for the display of the advertisement shall cease and the advertisement and any supporting structure shall be removed and the land/building on which the advertisement is displayed shall be reinstated. (2) The advertisement(s) displayed shall be maintained in a clean, tidy and safe condition. (3) Notwithstanding this consent no advertisement shall be displayed without the permission of the owner of or the permission of any other person with a controlling interest in the land. (4) Notwithstanding this consent no advertisement shall be displayed so as to obscure or hinder the interpretation of any road traffic sign, railway signal or aid to navigation by road, railway, water or air, or otherwise to render hazardous the use of any highway, railway, waterway or aerodrome.

The reason given for the condition is:

In the interests of amenity, highway safety and public safety, and to comply with Regulation 13 of the Town and Country Planning (Control of Advertisement) Regulations 2007.

Decision

1. The appeal is allowed and the advertisement consent Ref 18/02564/ADV for the installation of an internally illuminated digital LED display screen to both sides of the proposed free standing InLink at the public footpath outside 321A Bowes Road, Enfield N11 1BA granted on 3 August 2018 by the Council of the London Borough of Enfield, is varied by deleting condition 1.

Preliminary Matters

2. In granting express consent the Council was satisfied the advertisement would be acceptable in relation to the amenity of the area and public safety for the standard five-year period. There is no reason to take a different view.
3. The InLink unit had been installed and the digital display screens were operational at the time of the site visit.

Main Issue

4. The main issue is whether condition 1 is necessary and reasonable in the interests of amenity or public safety.

Reasons

5. The Government's Planning Practice Guidance makes it clear that all advertisements are subject to the standard conditions in Schedule 2 of the Regulations and if a local planning authority decides to impose additional conditions, these must be supported by specific and relevant planning reasons.
6. It also states they 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 Regulations whereby advertisements displayed after the expiry of express consent have deemed consent granted. The effect of the latter part of condition 1 (1) is to prevent the operation of Class 14.
7. In the Council's decision notice, the stated reason for imposing condition 1 was, *In the interests of amenity, highway safety and public safety, and to comply with Regulation 13 of the Town and Country Planning (Control of Advertisement) Regulations 2007*. Consequently, there was nothing specific which explained why, in this particular case, the Council would wish to prevent the operation of Class 14. Furthermore, the reference to *Regulation 13* appears to be an error. Unlike the 1992 Regulations whereby Regulation 13 concerned *Power to deal with applications*, in the 2007 Regulations it is Regulation 14. Regulation 13 in the 2007 Regulations concerns *Duty to consult*.
8. There is also nothing in the Council's officer report or submitted evidence which provides specific reasons as to why the Council would wish to prevent the operation of Class 14 in this particular case. Observations made at the site visit did not indicate the advertisement would be likely to cause any amenity or public safety issues at the expiry of the five-year express consent period. Moreover, should there be demonstrable harm following the expiry of the express consent period, there is no evidence to demonstrate why a discontinuance notice could not be utilised. The latter part of condition 1 (1) is therefore not justified and is unreasonable.
9. With regard to the remainder of the condition, the first part of condition 1 (1) sets out the consent is for a period of five years. However, Regulation 14(7) contains the provision that even where no period is specified by a local planning authority in granting consent, a period of five years shall apply. Parts (2), (3) and (4) of the condition effectively duplicate the majority of the standard conditions. These elements of the condition are therefore not strictly necessary.
10. Accordingly, it is considered that condition 1, in its entirety, is not necessary and reasonable in the interests of amenity or public safety.

Conclusion

11. For the reasons given above, the appeal is allowed and the express consent is varied by deleting condition 1.

C J Ford

APPOINTED PERSON