



Appeal Decisions

Site visits made on 19 November 2019 by Elizabeth Davies BSc (Hons) PIEMA

Decisions by Andrew Owen BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 December 2019

Both Appeals

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of express advertisement consent subject to conditions.
 - The appeals are made by British Telecommunications Plc against the decisions of the Council of the London Borough of Merton.
 - The adverts permitted are the display of 2 x internally illuminated digital LED display screens.
 - The condition in dispute in both appeals is condition 2 which states that: "This consent shall expire 5 years from the date of this decision whereupon the signage shall be removed and any damage repaired unless a further consent to display has been granted by the Local Planning Authority."
 - The reason given for the conditions is: "To comply with Regulation 14 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007".
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Appeal A - Ref: APP/T5720/Z/18/3214935

Outside Number 286 London Road, Merton CR4 3NB

- The application Ref: 18/P2467 is dated 16 June 2018, was approved by notice dated 17 September 2018.
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Appeal B - Ref: APP/T5720/Z/18/3214933

Outside Number 27 Abbotsbury Road, Morden, SM4 5LJ

- The application Ref: 18/P2468 is dated 16 June 2018, was approved by notice dated 7 September 2018.
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Decisions

Appeal A

1. The appeal is allowed and the advertisement consent, Ref 18/P2467, for the display of 2 x internally illuminated digital LED display screens outside Number 286 London Road, Merton CR4 3NB granted on 17 September 2018 by the Council of the London Borough of Merton is varied by deleting condition No. 2.

Appeal B

2. The appeal is allowed and the advertisement consent, Ref 18/P2468, for the display of 2 x internally illuminated digital LED display screens outside Number 27 Abbotsbury Road, Morden, London SM4 5LJ granted on 7 September 2018 by the Council of the London Borough of Merton is varied by deleting condition No. 2.

Appeal Procedure

3. The site visits were undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

4. The appeals relate to proposals by British Telecommunications Plc at two sites in the London Borough of Merton. The condition in dispute in both appeals is the same. I have considered each case on its individual merits, but as they dispute the same condition, the cases are dealt with in a single decision letter.

Background and Main Issue

5. The main issue is whether the condition is necessary having regard to matters of amenity and public safety as set out in The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the 'Regulations').

Reasons

6. The Planning Practice Guidance (the PPG) states that if a local planning authority decides to impose conditions that are additional to the standard conditions, these must be supported by specific and relevant planning reasons¹.
7. Under Regulation 14 (7)(b) of the Regulations all express consents are automatically given for 5 years unless otherwise specifically stated. Schedule 2 Class 14 of the Regulations grants deemed consent for any advert displayed after the end of express consent. The disputed condition removes the appellant's right to continue to display the advertisements under deemed consent after the end of 5 years.
8. In granting express consent, the Council was satisfied that the advertisements would be acceptable in the interests of amenity and public safety, as evidenced in the Planning Officer's Reports. The Council has not provided any specific or relevant planning reason as to why it would be necessary to remove the advertisements at the end of the 5 year period. Furthermore, there is no evidence before me that the proposed advertisements would cause amenity and public safety issues to arise at the expiry of the 5 year period. Therefore the restrictions set out in the condition are not justified.
9. The appellant seeks to vary the condition so that it remains to read 'This consent shall expire 5 years from the date of this decision'. However, as the Council's decision notices state that the consent is 'for a period of five years from the date of this notice', it is not necessary to impose a condition which replicates this.
10. I find therefore that the existing condition or its proposed variation are not necessary or reasonable in the interests of amenity or public safety.

Conclusion

11. For the reasons given above, I conclude that the appeals should be allowed and the express consents varied to remove condition No. 2.

¹ Paragraph: 034 Reference ID: 18b03420140306

Elizabeth Davies

APPEAL PLANNING OFFICER

Inspector's Decision

12. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis both appeals are allowed and both express consents are varied to remove condition No.2.

Andrew Owen

INSPECTOR