



Appeal Decision

Site visit made on 15 September 2020

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2020

Appeal Ref: APP/Z5060/H/20/3246667

Land immediately south of 678 Rainham Road South, Dagenham, London RM10 8YT

- 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 Ben Porte against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref 19/01808/ADV, dated 31 October 2019 was approved on 7 February 2020 and advertisement consent granted subject to conditions.
 - The advertisement permitted is 'Removal of gable wall mounted 48-sheet poster advertisement and erection of freestanding internally illuminated 48-sheet digital display on adjacent amenity green.'
 - The condition in dispute No 1 which states: This consent shall expire at the end of a period of 5 years beginning with the date of this decision notice, after which the advertisement hereby approved shall be removed.
 - The reason given for the condition is: To comply with the requirements of Regulation 14(7) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
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Decision

1. The appeal is allowed and the advertisement consent Ref 19/01808/ADV for removal of gable wall mounted 48-sheet poster advertisement and erection of freestanding internally illuminated 48-sheet digital display on adjacent amenity green, at Land immediately south of 678 Rainham Road South, Dagenham, London RM10 8YT, granted on 7 February 2020 by the Council of the London Borough of Barking & Dagenham, is varied by deleting Condition No 1.

Background and Main Issue

2. Consent to display an illuminated 48 sheet digital advertisement was granted by the Council subject to a condition that the advertisement shall be removed from the site following the expiry of a period of five years from the date of the decision notice. The appellant disputes the requirement to remove the advertisement after this period.
3. Accordingly, the main issue is whether the condition is necessary having regard to requirements of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) (the Regulations).

Reasons

4. The National Planning Practice Guidance (PPG) details that all advertisements, whether they require express consent or not, are subject to the five standard conditions. If a local planning authority decides to impose additional conditions,

these must be supported by specific and relevant planning reasons¹. The PPG specifically 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 (advertisements displayed after expiry of express consent) in their area. In other words, conditions should not be imposed to routinely remove the deemed consent advertisements displayed after the expiry of express consent otherwise have under Class 14 of Schedule 3 to the Regulations.

5. The Council's case, in essence, is that development may take place within the immediate vicinity within five years which would represent a material change in circumstances. Specific reference is made to redevelopment of the adjacent former Old Dagenham Methodist Church, and to a potential effect on the amenity of future occupants of the development. However, in granting express consent, the Council was satisfied that the advertisement would be acceptable in the interests of amenity and public safety, as evidenced in the Officer Report, where no reference was made to any impact on neighbouring properties, nor was any mention made of a planning permission granted on the adjacent site. Moreover, the evidence does not indicate whether a permission exists or what form any development may take. The Council's own comments at the appeal stage that the advertisement '*may* affect the amenity of neighbouring occupiers' (my emphasis) indicates to me that no specific planning harm has been identified as required by the PPG and the imposition of the condition is therefore unwarranted.
6. This aside, the Council has the power under the Regulations to serve a discontinuance notice in relation to the display of the advertisement if, at any time following the expiry of the express consent, it is found to cause substantial injury to the amenity of the area. This process would address actual harm at the time, rather than the perceived and unsubstantiated harms alleged by the Council in imposing the condition.
7. The appellant suggests the condition should be replaced with one confirming the consent period of five years but omitting the requirement for the advertisement to be removed at the end of this period. Regulation 14(7) 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. As the Council was satisfied that the advertisement was acceptable for the standard five year period, it is not necessary to impose another condition which is already imposed by virtue of Regulation 14(7).
8. For these reasons, I conclude that neither the existing condition nor its proposed variation are necessary or reasonable in the interests of amenity or public safety.

Conclusion

9. The appeal is allowed and the consent is varied to remove Condition No 1.

K Savage INSPECTOR

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