



Appeal Decision

Site visit made on 1 September 2020

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 28th September 2020

Appeal Ref: APP/M0655/H/20/3254314

Land at Lythgoes Lane/ Rear of Frith Rugs, Lythgoes Lane, Warrington WA2 7TJ

- 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 Global against the decision of Warrington Borough Council.
 - The application Ref 2020/36625, dated 14 February 2020, was approved on 05 May 2020 and advertisement consent was granted subject to conditions.
 - The advertisement permitted is described as "Advertisement – Proposed removal of 2 no existing illuminated 48-sheet advertisement displays and replace with 2 no. illuminated 48-sheet digital advertisement displays".
 - The condition in dispute is No 2 which states that: This consent shall expire 5 years from the date of this notice whereupon the signage shall be removed and any damage repaired unless further consent to display has been given by the Local Planning Authority.
 - The reason given for the condition is: To accord with Regulations 14(7) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) and for the purposes of amenity and public safety.
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Decision

1. The appeal is allowed and the advertisement consent Ref 2020/36625 for Advertisement – Proposed removal of 2 no existing illuminated 48-sheet advertisement displays and replace with 2 no. illuminated 48-sheet digital advertisement displays at Land at Lythgoes Lane/ Rear of Frith Rugs, Lythgoes Lane, Warrington WA2 7TJ granted on 05 May 2020 by Warrington Borough Council is varied by deleting condition No 2 and substituting for it the following condition:
 - The express advertisement consent hereby granted is limited to a period of 5 years from the date of the decision.

Background and Main Issue

2. The Regulations require that decisions are made only in the interests of amenity and public safety, taking account of any material factors. The National Planning Policy Framework (the Framework) and the Planning Practice Guidance (the PPG) reiterate this approach. The Council's officer report refers to several policies of the Warrington Borough Council Local Plan Core Strategy Adopted July 2014 (the LP) that relate to, among other things, town centres, transport and travel, and residential and visual amenity. I have taken account of the policies that the Council considers to be relevant to this appeal insofar as

they relate to amenity and public safety. However, they have not been decisive in my determination of this appeal.

3. The Council approved application Ref 2020/36625 for Advertisement – Proposed removal of 2 no existing illuminated 48-sheet advertisement displays and replace with 2 no. illuminated 48-sheet digital advertisement displays, subject to conditions. The condition in dispute (No 2) requires that the consent shall expire after a period of 5 years and the signage shall be removed.
4. The appellant considers that the condition is neither reasonable or necessary because advertisements displayed after the expiry of consent have deemed consent under Class 14 of Schedule 3 to the Regulations. Consequently, he proposes that condition No 2 be deleted and replaced with “This consent shall expire 5 years from the date of this decision”.
5. Therefore, the main issue in this appeal is whether condition No 2 is necessary or reasonable in the interests of amenity and public safety.

Reasons

6. The appeal relates to the site of an existing advertisement located adjacent to Lythgoes Lane, within Inner Warrington strategic town centre location. The site is in a mixed residential and commercial area outside of the Winwick Street Conservation Area. It is located towards the front of a rough vegetated embankment between the footway and Bryers Court and Bailey Court, which are substantial residential buildings in an elevated position. The next closest residential properties are on St Peter’s Way, on the opposite side of, and screened from, the busy Lythgoes Lane.
7. The approved advertisement is the same dimensions and it is in the same location as the existing advertisement. Although large, it is not discordant or out of scale with its surroundings. It does not contribute to visual clutter. Consequently, by virtue of its location and siting, the advertisement does not result in adverse impacts on amenity.
8. The advertisement is set back from the road behind the footway. It is not near a busy road junction or pedestrian crossing. It does not obstruct or impair sightlines and it does not impede the movement of traffic or of pedestrians. In this respect, the Council’s officer report is clear that, subject to conditions to control the nature of the display including its brightness, the advertisement would not distract road users and it would not harm public safety.
9. This approach is consistent with Regulation 14(1) of the Regulations which gives the local planning authority the power to grant express consent subject to the standard conditions and, subject to paragraphs (6) and (7), to such additional condition as it thinks fit. It also accords with the PPG, which states that if the local planning authority decides to impose additional conditions, these must be supported by specific and relevant planning reasons.
10. The disputed condition No 2, which specifies the express consent period and requires removal of the signage, is also additional to the standard conditions. The reason given for it is to accord with Regulation 14(7) of the Regulations and for the purposes of amenity and public safety.
11. In this regard, Regulation 14(7) states that express consent shall be subject to the condition that it expires at the end of such period as the local planning

authority may specify or, where no period is specified, a period of 5 years. On the basis that the application was for a 10 year period, the part of the condition that specifies the lesser period of 5 years is justified.

12. However, advertisements displayed after the expiry of express consent have deemed consent under Class 14 of Schedule 3 to the Regulations. While local planning authorities can require removal of advertisements at the end of the express consent period, the PPG states that additional conditions should not 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.
13. In this case, and taking into account condition Nos 1 and 3-11, the approved advertisement does not harm amenity or public safety. There is nothing before me to suggest that this would not continue to be the case following the expiry of express consent. No substantive evidence has been provided to the appeal in relation to the planning reasons for requiring the removal of the advertisement. In any event, the Council could seek to serve a discontinuance notice in the interests of amenity and public safety.
14. Therefore, and taking account of the Framework and the PPG, I find that the removal of the advertisement, and hence condition No 2, is neither necessary nor reasonable in the interests of amenity or public safety. Therefore, the deletion of condition No 2 and its proposed substitution would not result in conflict with policies CS7, CS9, QE6, QE7, MP1 and MP3 of the LP.

Conclusion

15. For the above reasons, the appeal is allowed and express consent is varied to delete the disputed condition No 2 and substitute it.

Sarah Manchester

INSPECTOR