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## Appeal Decisions

Site Visits made on 2 November 2021

**by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS**

**an Inspector appointed by the Secretary of State**

**Decision date: 16<sup>th</sup> November 2021**

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### **Appeal A - Ref: APP/Y0435/H/21/3272326**

**Site B, 32m from Next Homeware Ltd, 165 Silbury Arcade, Milton Keynes MK9 3AQ**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a condition imposed when granting express consent.
  - The appeal is made by JCDecaux UK Limited against the decision of Milton Keynes Council.
  - The application Ref 20/03346/ADV, dated 21 December 2020, was approved on 15 February 2021 and express consent was granted for the display of an advertisement subject to conditions.
  - The advertisement permitted is a single sided LCD screen measuring 86" to the communication hub for the display of advertisements.
  - The condition in dispute is No 2 which states that: This consent shall be restricted to a period of five years from the date of the consent. On or before the expiry of five years the advertisement/s shall be removed and the building (land) reinstated.
  - The reasons given for the conditions are: This condition is specified by the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
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### **Appeal B - Ref: APP/Y0435/H/21/3272328**

**Site E, 23m from Braid Barbers, 769 Midsummer Boulevard, Milton Keynes MK9 3BG**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a condition imposed when granting express consent.
  - The appeal is made by JCDecaux UK Limited against the decision of Milton Keynes Council.
  - The application Ref 20/03352/ADV, dated 21 December 2020, was approved on 15 February 2021 and express consent was granted for the display of an advertisement subject to conditions.
  - The advertisement permitted is a single sided LCD screen.
  - The condition in dispute is No 2 which states that: This consent shall be restricted to a period of five years from the date of the consent. On or before the expiry of five years the advertisement/s shall be removed and the building (land) reinstated.
  - The reasons given for the conditions are: This condition is specified by the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
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### **Appeal C - Ref: APP/Y0435/H/21/3272330**

**Site F, outside Paperchase, Entrance 12 South Eagle Walk, 146 Midsummer Boulevard, Milton Keynes MK9 3BA**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a condition imposed when granting express consent.

- The appeal is made by JCDecaux UK Limited against the decision of Milton Keynes Council.
  - The application Ref 20/03354/ADV, dated 21 December 2020, was approved on 15 February 2021 and express consent was granted for the display of an advertisement subject to conditions.
  - The advertisement permitted is a single sided LCD screen.
  - The condition in dispute is No 2 which states that: This consent shall be restricted to a period of five years from the date of the consent. On or before the expiry of five years the advertisement/s shall be removed and the building (land) reinstated.
  - The reasons given for the conditions are: This condition is specified by the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
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### **Appeal D - Ref: APP/Y0435/H/21/3272333**

#### **Site G, outside McDonalds Restaurant Limited, Entrance 6 (South Borough Walk), 52 - 56 Midsummer Arcade, Milton Keynes MK9 3BB**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a condition imposed when granting express consent.
  - The appeal is made by JCDecaux UK Limited against the decision of Milton Keynes Council.
  - The application Ref 20/03356/ADV, dated 21 December 2020, was approved on 15 February 2021 and express consent was granted for the display of an advertisement subject to conditions.
  - The advertisement permitted is a single sided LCD screen.
  - The condition in dispute is No 2 which states that: This consent shall be restricted to a period of five years from the date of the consent. On or before the expiry of five years the advertisement/s shall be removed and the building (land) reinstated.
  - The reasons given for the conditions are: This condition is specified by the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
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## **Decisions**

### **Appeal A**

1. The appeal is allowed and the advertisement consent, Ref 20/03346/ADV, for a single sided LCD screen measuring 86" to the communication hub for the display of advertisements 32m from Next Homeware Ltd, 165 Silbury Arcade, Milton Keynes MK9 3AQ granted on 15 February 2021 by Milton Keynes Council, is varied by deleting condition 2.

### **Appeal B**

2. The appeal is allowed and the advertisement consent, Ref 20/03352/ADV, for a single sided LCD screen 23m from Braid Barbers, 769 Midsummer Boulevard, Milton Keynes MK9 3BG granted on 15 February 2021 by Milton Keynes Council, is varied by deleting condition 2.

### **Appeal C**

3. The appeal is allowed and the advertisement consent, Ref 20/03354/ADV, for a single sided LCD screen outside Paperchase, Entrance 12 South Eagle Walk, 146 Midsummer Boulevard, Milton Keynes MK9 3BA granted on 15 February 2021 by Milton Keynes Council, is varied by deleting condition 2.

### **Appeal D**

4. The appeal is allowed and the advertisement consent, Ref 20/03356/ADV , for a single sided LCD screen outside McDonalds Restaurant Limited, Entrance 6 (South Borough Walk), 52 - 56 Midsummer Arcade, Milton Keynes MK9 3BB granted on 15 February 2021 by Milton Keynes Council, is varied by deleting condition 2.

### **Main Issue**

5. Planning permission has been applied for to replace payphone kiosks with communication hub units around the perimeter of the 'centre:mk' shopping centre. In relation to four of these units, advertisement consent for a single sided LCD screen has been granted subject to conditions, one of which requires that they are removed within 5 years. The appeals before me seek the removal of this condition.
6. The main issue in all these appeals, therefore, is whether it is reasonable and necessary to require that the advertisements are removed within 5 years of the date of consent.

### **Reasons**

7. An express consent for an advertisement is automatically given for a period of 5 years, unless stated otherwise. After the expiry of the relevant period the advertisement can continue to be lawfully displayed as it will have the benefit of deemed consent under Class 14 of Schedule 3 of the Regulations. However, a non-standard condition requiring that an advertising display is removed at the end of the relevant period can be attached to a consent where it is evident that it is likely that the display will have become unacceptable by that point.
8. Centre:mk is a Grade II listed building. The communication hub units and the advertising screens upon them that are the subject of this appeal would be located close to the pedestrian entrances to centre:mk, between the building itself and the car parks and footways that provide access. The Council has found that the LCD advertising screens would be in keeping, in terms of scale and location, with the context of the shopping centre, its tree lined walkways and adjacent car parking, and so would not have an adverse effect on visual amenity. In terms of highway safety, the LPA has also found that it would not cause harm. On the basis of my site visit I agree with these assessments.
9. Planning Practice Guidance states that if a local planning authority decides to impose conditions which are in addition to the standard conditions, these must be supported by specific and relevant planning reasons. It also 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 of Schedule 3 in their area<sup>1</sup>.
10. The LPA has not explained why the advertising screens that are deemed to be currently acceptable would not be in five years' time. In the absence of evidence that the surroundings of the adverts will be so different by February 2026 that the advertisements will harm visual amenity or public safety, I therefore conclude that condition 2 is unreasonable and unnecessary.

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<sup>1</sup> Reference ID: 18b-034-20140306

## **Conclusion**

11. For the reasons given above, and mindful of the fact that powers would be available to the Council to take discontinuation action if appropriate, I therefore conclude that all of the appeals should be allowed. I will therefore vary the express consent for each by deleting the disputed condition.

*Ian Radcliffe*

Inspector