



Appeal Decision

Site visit made on 15 November 2021

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th January 2022

Appeal Ref: APP/U5930/H/21/3270815

Land adjacent to 164 Chingford Road, London E17 4PL

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 as amended (the Regulations) against conditions imposed when granting express consent.
 - The appeal is made by Wildstone Group Limited against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 202918, dated 13 November 2020, was approved on 28 January 2021 and express consent was granted for the display of an advertisement subject to conditions.
 - The advertisement permitted is removal of the existing externally illuminated advertisement board and installation of an internally illuminated advertisement hoarding with digital display.
 - The condition in dispute is No 1 which states that: *'The advertisement hereby granted consent shall not be retained on the site after the expiry of 5 years from the date of this decision'*.
 - 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 202918 for removal of the existing externally illuminated advertisement board and installation of an internally illuminated advertisement hoarding with digital display at land adjacent to 164 Chingford Road, London E17 4PL, granted on 28 January 2021 by Waltham Forest London Borough Council, is varied by deleting condition No 1.

Background and Main Issue

2. The Council has granted express consent to replace an externally illuminated paper advertisement board, which is still in situ, with a smaller digital advertisement display (the DA). Condition No 1 is in dispute and requires the DA to be removed after 5 years. The appellant seeks to vary the wording of this condition to: *'Express consent shall expire five years from the date of this decision'*. Taking this background into account, the main issue is whether condition No 1 is necessary or reasonable, having regard to the effect of the DA on amenity and public safety.

Reasons

3. The appeal site is in a mixed use, mostly residential area and the open corner plot contains two externally illuminated paper advertisement boards. These are visible mainly in one direction along Chingford Road, which is a busy main

road, and in outlook from some nearby homes, as would be the DA. The main parties agree that the siting, size and appearance of the DA would have no unacceptable adverse effect on amenity or public safety within 5 years of the date of the express consent. I have no reason to differ.

4. Regulation 14 (5)(c)¹ allows the Council to include a non-standard condition to remove any advertisement after a specified period. Condition No 1 has this effect and would also prevent subsequent lawful display of the DA with the benefit of deemed consent under Class 14². While the appellant could seek to renew the express consent, Planning Practice Guidance³ states that additional non-standard conditions imposed on an express consent must be supported by specific and relevant planning reasons and should never be imposed because the local planning authority wishes, as a matter of general policy, to prevent the operation of Class 14 in its area.
5. Visual and residential amenity near the site, and the nature of the Chingford Road highway corridor, may change in the future. However, there is no particular likelihood of this before me. Furthermore, the Council has also provided no specific, relevant compelling planning reason to justify that the DA would be unacceptable if displayed at the site after the end of the express consent. These are, therefore, vague and generalised concerns. Furthermore, while the Council's Policies CS15⁴ and DM29⁵ seek, inter alia, to protect amenity and public safety, there is no evidence in this appeal that the display of the DA under express consent, or deemed consent thereafter, would cause harm in either respect. It would, therefore, comply with these policies. Consequently, I find that condition No 1 is not necessary or reasonable.
6. Regulation 14 (7)(a) allows express consent to be granted subject to a condition that it expires at the end of a specified period. Condition No 1 does not specify such a period, nor does any other condition in the express consent. Consequently, by virtue of Regulation 14 (7)(b) the express consent is automatically for 5 years and the appellant's suggested condition is not necessary. The Council could serve a notice after the express consent expires to seek to discontinue the display of the DA under deemed consent and it would be able to consider applications for express consent to alter other advertisements in the vicinity of the site or on new sites. It would be able to consider the quality and character of the streetscape at that time and, as the National Planning Policy Framework also requires, have regard to cumulative impacts, including the DA, and to any material change in circumstances since the express consent was granted.

Conclusion

7. For the reasons given above, I conclude that the appeal should succeed.

Robin Buchanan

INSPECTOR

¹ Part 3 (express consent) of the Regulations

² Schedule 3 (classes of advertisements for which deemed consent is granted), Part 1 (advertisements displayed after expiry of express consent) of the Regulations

³ Paragraph 18b-034-20140306

⁴ Waltham Forest Local Plan Core Strategy, March 2012

⁵ Waltham Forest Local Plan Development Management Policies, October 2013