



Appeal Decision

Site visit made on 26 January 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 9th February 2022

Appeal Ref: APP/M0655/H/21/3280970

8 Parker Street, Bewsey and Whitecross, Warrington WA1 1LT

- 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 Wildstone Estates Limited against the decision of Warrington Borough Council.
 - The application Ref 2021/38696 dated 3 February 2021 was approved on 7 July 2021 subject to conditions.
 - The advertisement permitted is the conversion of poster advertisement to digital display.
 - The conditions in dispute are as follows:
No. 8, which states that: This consent shall expire 3 years from the date of this notice
No. 9, which states that: Following expiration of this consent (3 years from the date of this notice) the signage shall be removed and any damage repaired unless further consent to display has been given by the Local Planning Authority.
 - The reasons given for the conditions are to accord with Regulation 14(7) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) and in the interests of potential future redevelopment of the adjacent site.
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Decision

1. The appeal is allowed and the advertisement consent, Ref 2021/38696 for the conversion of poster advertisement to digital display at 8 Parker Street, Bewsey and Whitecross, Warrington WA1 1LT granted 7 July 2021 is varied by deleting conditions 8 and 9.

Main Issue

2. The main issue in this case is whether the disputed conditions are reasonable and necessary in the interests of public safety and amenity.

Reasons

3. The appeal site comprises the gable end of the property at 8 Parker Street, overlooking a car park and close to the crossroads junction with Sankey Street, Crosfield St and Liverpool Road. The Council granted consent for the conversion of the current poster advertisement at the site to a digital display.
4. Advertisements granted consent are subject to the standard conditions set out in Schedule 2 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) (the Regulations). This includes Regulation 14(7), which 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 specified, a period of 5 years.

5. In this case, the Council has specified that consent shall expire 3 years from the date of its decision notice, and that the signage shall be removed thereafter. The reason given for this is to accord with Regulation 14(7). However, the Council's reasoning also relates to potential future redevelopment of the adjacent site. It states that the advertisement could be obscured by development of the plot and has imposed these conditions so that such future development is not precluded, given the town centre location of the site.
6. The Planning Practice Guidance (PPG) makes it clear that all planning conditions should meet a number of tests, including that they are necessary and reasonable. In addition, the Regulations, National Planning Policy Framework and PPG state that advertisements should be subject to control only in the interests of public safety and amenity. The PPG further states that conditions should never be imposed because the Council wishes, as a matter of general policy, to prevent the operation of Class 14 in Schedule 3, allowing advertisements to be displayed after the expiry of express consent.
7. In granting express consent for the advertisement, the Council is satisfied that it would be acceptable in the interests of amenity and public safety, as evidenced in its Officer's Report. On the basis of my observations, I have no reason to disagree with this stance. In addition, while the PPG makes it clear the Council has the power to require removal of an advertisement at the end of the consent period, there is no compelling evidence before me as to why it would be reasonable or necessary to do so in this case.
8. No substantive evidence of potential adjacent development has been submitted by the Council, such that the preclusion of future development as a result of the advertisement amounts to a theoretical possibility only. There is also no evidence to suggest that the character and appearance of the area would significantly change in the future or that the advertisement would have any greater effect on public safety were it subject to either a 3 year or standard 5 year time period.
9. Indeed it seems that the Council's principal concern is that if the car park at the corner of Parker Street and Sankey Street were to be built upon, noting there was a commercial building present there previously, it would obscure the sign. That, if anything, suggests a reduced effect on amenity and safety, though I accept in that hypothetical scenario a balanced judgement on competing uses would need to be reached.
10. As such, on the basis of the information before me, limiting the period of consent to a period of 3 years, and requiring the removal of the advert thereafter is neither reasonable or necessary in the interests of amenity or public safety.

Conditions

11. The appellant seeks to vary condition 8 to state that the express consent shall be for a period of 5 years. However, by virtue of Regulation 14(7) the express consent shall automatically expire at the end of such a period. It is therefore not necessary to attach a condition which is already imposed by virtue of this regulation. For the avoidance of doubt as I am varying the original consent, this period would run from the date of the Council's decision notice i.e. 7 July 2021.

12. With regards to condition 9, as there is no compelling evidence before me as to why this is reasonable or necessary in this case I have deleted this condition.

Conclusions

13. For the reasons given above, I find that the existing conditions 8 and 9, and the proposed variation, are not necessary or reasonable in the interests of amenity or public safety. I therefore conclude that the appeal is allowed and the express consent is varied to remove condition Nos. 8 and 9.

C Rafferty

INSPECTOR