



Appeal Decision

Site visit made on 7 November 2022

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th November 2022

Appeal Ref: APP/T5150/H/22/3297215

Advertising rights opposite Panther Drive, Drury Way, Brent, London NW10 0HZ

- 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 (Clear Channel UK) against the decision of the Council of the London Borough of Brent.
 - The application Ref 22/0602, dated 19 February 2022, was approved on 14 April 2022 and express consent was granted for the display of an advertisement subject to conditions.
 - The advertisement permitted is replacement of existing 48-sheet poster advertisement with illuminated 48-sheet digital poster display.
 - The condition in dispute is No 1 which states that:
This permission is granted subject to the requirements of Regulation 14(7)(b) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 which states that every grant of express consent shall operate for a period of five years from the date of consent and is subject to the following standard conditions stipulated in Schedule 2 to the said Regulations:-
 - (i) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
 - (ii) no advertisement shall be sited or displayed so as to endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military).
 - (iii) no advertisement shall be sited or displayed so as to obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air.
 - (iv) no advertisement shall be sited or displayed so as to hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
 - (v) any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
 - (vi) any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public
 - (vii) where an advertisement is required under the Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.*Following the expiration of the period of five years, to which this permission relates, the advertisement(s) and all fixtures and fittings associated with it (them) shall be removed.*
 - The reasons given for the condition is: *To conform with the requirements 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 22/0602 for replacement of existing 48-sheet poster advertisement with illuminated 48-sheet digital poster display at Advertising rights opposite Panther Drive, Drury Way, Brent, London NW10 0HZ granted on 14 April 2022 by the Council of the

London Borough of Brent is varied by deleting condition 1 and substituting it for the following condition:

- 1) This permission is granted subject to the requirements of Regulation 14(7)(b) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 which states that every grant of express consent shall operate for a period of five years from the date of consent and is subject to the following standard conditions stipulated in Schedule 2 to the said Regulations:-

(i) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

(ii) no advertisement shall be sited or displayed so as to endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military).

(iii) no advertisement shall be sited or displayed so as to obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air.

(iv) no advertisement shall be sited or displayed so as to hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

(v) any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

(vi) any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

(vii) where an advertisement is required under the Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Applications for costs

2. An application for costs was made by Mr Ben Porte (Clear Channel UK) against the Council of the London Borough of Brent. This is the subject of a separate Decision.

Background and Main Issue

3. Application Ref 22/0602, which granted advertisement consent for the replacement of existing 48-sheet poster advertisement with illuminated 48-sheet digital poster display, was subject to 7 conditions. Part of condition 1 requires the advertisement to be removed following the expiration of 5 years from the date of the permission. The appellant considers this requirement to be unjustified and unnecessary.
4. In this context, the main issue is whether the disputed part of the condition is reasonable and necessary in the interests of amenity or public safety.

Reasons

5. The disputed part of condition 1 removes the appellant's right to continue to display the advertisement under deemed consent that would otherwise apply after the expiry of the express consent. This part of condition 1 is not one of the standard conditions to which all advertisements are subject under the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations).
6. The Planning Practice Guidance states that if a local planning authority decides to impose conditions that are additional 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 in Schedule 3 of the Regulations (advertisements displayed after expiry of express consent) in their area.
7. The reason for condition 1 refers in general terms only to the Regulations. No specific planning reason is provided therein nor is there any discussion to this end within the Council's Officer Report. In granting advertisement consent, the Council considered that the proposal was not harmful to amenity or public safety, and I have no reason to disagree.
8. Land south of the appeal site may have been removed from a Strategic Industrial Location designation under the provisions of the Brent Local Plan 2019-2041, but I have no substantive evidence before me of the likelihood of the redevelopment of this land nor the timescales in which this would be likely to occur. Neither has it been shown to me why the advertisement would be harmful to either amenity or public safety should redevelopment be forthcoming on land to the south.
9. Furthermore, if, in the future, it was considered necessary to remedy a substantial injury to the amenity of the locality or a danger to members of the public, then the Council has powers to serve a discontinuance notice after the period of express consent has ended, should it consider it to be expedient to do so.
10. From the evidence before me, I find no specific or relevant planning reasons to withhold the right to display the advertisement under deemed consent. In the absence of any substantive evidence to demonstrate that deemed powers should be removed, the advice in the Planning Practice Guidance, and the powers available to the Council to take discontinuance action if appropriate, I consider that the disputed part of condition 1 is neither reasonable nor necessary in the interests of amenity or public safety.

Conclusion

11. For the reasons given the appeal is allowed and express consent varied to remove condition 1 and substitute it for a new condition with the statement in dispute removed.

H Jones

INSPECTOR