



Appeal Decision

Site visit made on 17 January 2023

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2023

Appeal Ref: APP/V2255/H/21/3288497

Land at Brielle Way, West End House, Sheerness ME12 1LN

- 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 Clear Channel UK Ltd against the decision of Swale Borough Council.
 - The application Ref 21/504770/ADV, dated 17 August 2021, was approved on 9 November 2021 and express consent was granted for the display of an advertisement subject to conditions.
 - The advertisement permitted is described on the decision notice as 'installation of 1no. 48-sheet (6m x 3m) digital advertising display and removal of 2no. 48-sheet (6m x 3m) advertising displays'.
 - The condition in dispute is no9. which states that:
The signage display hereby approved shall be for a period not exceeding 5 years from the date of this permission and it shall cease and be removed from site at the end of the 5 year period.
 - The reason given for the condition is:
In order that the position may be reviewed at the end of the period stated.
-

Decision

1. The appeal is allowed and the original consent is varied by the removal of condition 9.

Preliminary Matter

2. I observed during my site visit that the development has been carried out.

Background and Main Issue

3. Express consent was granted by the Council on 9 November 2021 for the display of one 48-sheet digital advertising display, with associated removal of two 48-sheet displays. The consent was granted subject to condition 9 which limited the display to a period not exceeding 5 years and requiring it to cease and be removed at the end of that period. The Council report the condition was imposed for reasons relating to public safety, specifically the safety of the adjacent road.
4. The appellant seeks to vary condition 9 and considers the condition is unreasonable and unnecessary in its current form through requiring the removal of the display after this period. The appellant proposes the condition should, instead, state that the express consent shall expire five years from the date of the decision. Comments have also been sought from the main parties regarding the removal of condition 9 in its entirety.

5. The main issue for this appeal is therefore whether condition 9 meets the tests of reasonableness and necessity, and the effects of its variation or removal on public safety.

Main Issue

6. The appeal site lies to the side of the A249 which forms a part of the Strategic Road Network and which carries freight to and from Sheerness Docks to the north. The advertisement faces towards the north-bound traffic and is separated from the carriageway by the railway line. While I appreciate it was only a snapshot in time, I observed during my site visit that this was a busy stretch of road, accommodating a range of vehicles including heavy goods vehicles.
7. Regulation 14(7)(b) of the Regulations stipulates that all consents are automatically given for 5 years, unless specifically stated. The condition in question goes beyond this requirement through requiring the removal of the advertisement after a 5 year period, thereby preventing the ability for the advertisement to continue to be displayed under the deemed consent of Class 14, Schedule 3 of the Regulations. Planning Practice Guidance (PPG) states that where additional conditions are imposed on an express consent, these must be supported by specific and relevant planning reasons, rather than as a matter of general policy.
8. National Highways (formerly Highways England) recognise in its consultation response that the advertisement has the potential to impact on the safe and efficient operation of the A249 Brielle Way and seek an opportunity to assess accident patterns at the end of a five year period. Concerns are also raised in respect of the intention of the advertisement to draw attention of the users of the road, and that the images on the display would change. However, there is little evidence before me to indicate that the proposal would, or would be likely to, cause harm to public safety at the end of the 5 year period. Instead, the concerns relate to a generalised fear of accidents, without substantive evidence as to why this would be the case here relating to this specific site and display, particularly given the other conditions on the consent relating to the images displayed.
9. As such there is not firm evidence to indicate that the advertisement would be likely to be unacceptable at the end of the 5 year period. Even if the advertisement were to continue to be displayed under Class 14, Schedule 3 of the Regulations, it could still subsequently be removed if discontinuance action were taken by the local planning authority should it consider it necessary to remedy a substantial injury to the amenity of the locality or a danger to members of the public.
10. For the reasons given, I find the requirement for the advertisement to be removed at the end of a 5 year period would not meet the tests of reasonableness or necessity, nor has the requirement been supported by specific and relevant planning reasons. In turn, the removal of this requirement from the condition would not cause harm to public safety on the road.
11. With the removal of the latter part of the condition, the condition would simply reflect the Regulations insofar as they state that an express consent shall be subject to the condition that it expires at the end of 5 years, where no other

period is specified. Consequently, to vary and reimpose the condition would not be necessary and it should be removed.

Conclusion

12. For the reasons given, the appeal is allowed and the original consent is varied by removing condition 9.

C Shearing

INSPECTOR