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# Appeal Decision

Site visit made on 13 March 2024

**by D Cleary MTCP MRTPI**

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

**Decision date: 12 April 2024**

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**Appeal Ref: APP/U4610/H/23/3323042**

**Land on the south east of Foleshill Road, Foleshill, Coventry CV1 4HX**

- 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 Coventry City Council.
- The application Ref: PL/2023/0000319/ADV, dated 3 February 2023, was approved by notice dated 12 April 2023 and advertisement consent granted subject to conditions.
- The advertisement permitted is the 'removal of existing advertisement display boards and erection of two internally illuminated digital advertisement boards'.
- The condition in dispute is No 1 which states: This consent shall expire at the end of a period of 5 years from the date of this decision, on or before which date the display of advertisement(s) shall be permanently discontinued, with any structure or hoarding used principally for the purpose of displaying the advertisement(s) also being removed.
- The reason given for the condition is: In recognition that the principle of the advertisement(s) approved requires review in the interests of highway safety and amenity beyond the period of consent, thereby preventing operation of Deemed Consent provisions under Class 14 of Schedule 3 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended).

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## Decision

1. The appeal is allowed and advertisement consent Ref PL/2023/0000319/ADV, for the removal of existing advertisement display boards and erection of two internally illuminated digital advertisement boards, at Land on the south east of Foleshill Road, Foleshill, Coventry CV1 4HX, granted on 12 April 2023 by Coventry City Council, is varied by deleting Condition No 1.

## Application for Costs

2. An application for costs was made by Wildstone Estates Limited against Coventry City Council. This application is the subject of a separate Decision.

## Background and Main Issue

3. Consent to display two internally illuminated digital advertisement boards was granted by the Council subject to a condition that the advertisements shall be removed from the site following the expiry of a period of five years from the date of the decision notice. The appellant disputes the requirement to remove the advertisement after this period. The Council have confirmed that incorrect wording was imposed in error and that they do not contest the appeal.

4. Accordingly, the main issue is whether the condition is necessary having regard to requirements of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) (the Regulations).

## **Reasons**

5. The National Planning Practice Guidance (PPG) details that all advertisements, whether they require express consent or not, are subject to the standard conditions set out in Schedule 2 to the Regulations<sup>1</sup>.
6. The PPG confirms that if a local planning authority decides to impose additional conditions, these must be supported by specific and relevant planning reasons. The PPG specifically 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 (advertisements displayed after expiry of express consent) in their area. Therefore, a condition should not be imposed to routinely remove the deemed consent for the display of advertisements after the expiry of express consent.
7. In granting express consent, the Council was satisfied that the advertisement would be acceptable in the interests of amenity and public safety, as evidenced in the Officer Report. Indeed, the Council consider the replacement advertisements to improve the visual appearance of the streetscene. No reference is made to any likely, or potential, change in circumstances that may occur locally before the end of the express period which may adjust the future acceptability of the adverts, nor have they identified any other scenario which would justify the imposition of the condition. Furthermore, it is also noted that an earlier advertisement application, on the same site, was granted express consent without a condition requiring their removal<sup>2</sup>. There is no evidence or reason to suggest why a different approach to decision making was taken in this later consent.
8. The Council have confirmed that the condition was imposed in error and, as such, have provided no specific or relevant planning reasons for the imposition of the condition in response to the appeal. Therefore, no specific planning harm has been identified, as required by the PPG, and the imposition of the condition is therefore unwarranted.
9. In any event, if at any time following the expiry of the express consent, the advertisement is found to cause substantial injury to the amenity of the area, then the Council has the power under the Regulations to serve a discontinuance notice. This process would address actual harm at the time, rather than any unsubstantiated harm.
10. The Regulations<sup>3</sup> state 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 so specified, a period of 5 years. The Council was satisfied that the advertisement was acceptable for the standard five-year period, and therefore it is not necessary

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

<sup>2</sup> ADV/2022/0638

<sup>3</sup> Regulation 14(7)

to impose a varied condition as it is already imposed by virtue of the Regulations.

11. For these reasons, I conclude that the existing condition is not necessary or reasonable in the interests of amenity or public safety.

**Conclusion**

12. For the above reasons, the appeal is allowed and the advertisement consent is varied to remove Condition No 1.

*D Cleary*

INSPECTOR