

Appeal Decision

Site visit made on 24 September 2024

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 October 2024

Appeal Ref: APP/D4635/H/24/3338508

Land Adjoining 501 Stafford Road, Ford Houses, Wolverhampton WV10 6QE

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against conditions imposed when granting express consent.
 - The appeal is made by Wildstone Estates Limited against the decision of Wolverhampton City Council.
 - The application Ref 23/01257/ADV was approved on 15 January 2024 and express consent was granted for the display of an advertisement subject to conditions.
 - The advertisement permitted is "replacement 48-sheet digital advertising display, with static internal illumination".
 - The condition in dispute is No 7 which states that:
 - 7a. The advertisement consent hereby granted shall expiry at the end of 5 years from the date of this decision notice.*
 - 7b. Unless otherwise agreed in writing by the Local Planning Authority, the advertisements should be removed within 4 months following the expiry of this advertisement consent.*
 - The reasons given for the condition is: *Pursuant to the requirements of Part 3 Section 14(7)(8) 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 the express consent Ref 23/01257/ADV for the replacement 48-sheet digital advertising display, with static internal illumination at land adjoining 501 Stafford Road, Ford Houses, Wolverhampton WV10 6QE granted on 15 January 2024 by Wolverhampton City Council is varied by deleting condition 7 and substituting it with the following condition:
 - 7) The advertisement consent hereby granted expires 5 years from 15 January 2024.

Preliminary Matters

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

3. The appellant has referred to the incorrect reason for condition 7 within their appeal statement. I have had regard to the reason given for condition 7, which is outlined within the banner header above.

Background and Main Issue

4. Consent to display a 48-sheet digital advertisement display was granted by the Council subject to conditions. The Council specified, under condition 7a, that the permission shall expire at the end of 5 years from the date of its decision notice, and, under condition 7b, the advertisement shall be removed within 4 months following the expiry of the advertisement consent. The reason given for the condition was to accord with Part 3 Regulation 14(7)(8) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) (the Regulations).
5. The appellant seeks to vary condition 7 through the deletion of section 7b, as they consider this element, by requiring the removal of the advertisement after the stipulated period, unreasonable and unnecessary.
6. Therefore, the main issue is whether the condition is reasonable and necessary, having regard to the requirements of the Regulations.

Reasons

7. Advertisements granted consent are subject to the standard conditions set out in Schedule 2 of the Regulations. In addition, Regulation 14(7) of the Regulations requires that an express consent shall be subject to the condition that it expires at the end of 5 years, unless otherwise specifically stated. Regulation 14(8) of the Regulations states that the local planning authority may specify the date on which the period under Regulation 14(7)(a) is to begin. Advertisements displayed after the expiry of express consent have deemed consent under Class 14 of Schedule 3 to the Regulations.
8. Planning Policy Guidance (PPG) states that where any additional conditions are imposed, they must be supported by specific and relevant planning reasons. Moreover, the PPG states that they 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.
9. The reason given for condition 7 relates to the advertisement's timeframe for expiry. Condition 7b goes further and requires the advertisement to be removed within a specified period following the expiry of the advertisement consent.
10. The Council's appeal statement cites public safety as their primary concern in respect of their reasoning for condition 7b. The appeal site is located on Marsh Road, close to a 4-way, roundabout junction with Stafford Road. There are a number of commercial units within the vicinity of this junction, in addition to a pedestrian zebra crossing close to the appeal site. While only a snapshot in time, during a quieter part of the day, I observed that the roundabout junction was located on a busy stretch of road and well utilised.
11. Due to the proximity of the advertisement to the busy junction, together with the brightness and changing displays associated with digital adverts,

the Council are concerned that the advertisement could lead to instances of traffic collisions, presenting a harm to highway safety. The Council further state that this harm could be exacerbated if the stipulated illuminance levels are not complied with. Nevertheless, the Council's Transportation team confirmed no recent history of traffic collisions or incidents, and the express consent was considered acceptable on highway safety grounds, subject to conditions.

12. While noting the Council's current limited resources, the concerns raised relate to perceived harms and non-compliance with conditions attached to the express consent. As such, there is no substantive evidence before me that demonstrates the development will, or is likely to, cause harm to public safety during the stipulated 5 year period.
13. However, the Council has power under Regulation 8 of the Advertisement Regulations to discontinue the advertisement if, at any time following the expiry of the express consent, it is found to cause substantial injury to the amenity of the area or danger to the public. Such a process would allow the Council to address any actual harms arising from the development.
14. For these reasons, I conclude that the existing condition in its current form is not reasonable or necessary, having regard to the requirements of the Regulations.

Conclusion

15. For the reasons given, the appeal is allowed, and the original consent is varied by removing condition 7 and replacing it with a new condition with the section in dispute removed.

S Pearce

INSPECTOR