
Appeal Decisions

Site visit made on 16 November 2016

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 December 2016

Appeal Ref: APP/Z0116/H/16/3149170

420-422 Stapleton Road, Easton, Bristol BS5 6NQ

Appeal A:

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr Martin MacNamara of Vision Sites against the decision of Bristol City Council.
 - The application Ref 15/04407/A, dated 18 June 2015, was refused by notice dated 18 March 2016.
 - The advertisement proposed is one free standing digital advertising board (5m x 7.5m) with associated logo box.
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Appeal B:

- 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 Martin MacNamara of Vision Sites against the decision of Bristol City Council.
 - The application Ref 15/04407/A, is dated 18 June 2015. The conditions in dispute are Nos 1, 10 and 12 which state that: (1) the consent shall be restricted to a period of five years from the date of this consent, at which time the display and all associated structures shall be removed, unless otherwise agreed in writing by the Local Planning Authority; (10) the advertisements displayed shall not change more frequently than once every 30 seconds; (12) within 1 month following the erection of the LED screen hereby approved, the poster hoardings marked as 1-5 on drawing number PP003 – Existing Site Location Plan – and associated structures shall be removed and the site returned to a satisfactory and safe state. The reasons given for the conditions are: (1) in the interests of highway safety; (10) in the interests of highway safety; (12) to protect the visual amenity of the area.
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Decision

1. Appeal A dismissed.
 2. Appeal B is allowed and the advertisement consent Ref 15/04407/A for one wall mounted digital advertising board (14m x 3.5m) with associated logo box at 420-422 Stapleton Road, Easton, Bristol BS5 6NQ granted on 18 March 2016 by Bristol City Council is varied by deleting conditions 1, 10 and 12 and substituting for them the following conditions, and on the basis that the consent is for five years from the date of this decision:
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- i) the advertisement displayed shall not change more frequently than once every 10 seconds.
- ii) within 1 month following the erection of the LED screen hereby approved, the poster hoardings marked as 1- 4 on drawing number PP003 – Existing Site Location Plan – and associated structures shall be removed and the site returned to a satisfactory and safe state.

Procedural Matters

3. I have taken into account the Government's Planning Practice Guidance, issued on 6 March 2014, in reaching my decision.
4. The appeals relate to both aspects of an original split decision by the Council. I have considered these as Appeal A and Appeal B as set out in the above header.

Main Issues

5. The main issue in respect of Appeal A is the effect of the proposed advertisement on highway safety on the north-east bound carriageway of the M32 motorway.
6. The main issues in respect of Appeal B are whether the conditions are reasonable or necessary in the interests of highway safety (in respect of conditions 1 and 10) and the visual amenity of the area (in respect of condition 12).

Reasons

Appeal A

7. The National Planning Policy Framework (the Framework) states that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.
8. The sign concerned would be a large, highly visible and fully illuminated, sign that would be angled towards on-coming traffic from the south-west on the opposite side of the road. Furthermore, it would include a changing display, which, even with a 30 seconds frequency, would inevitably enable the potential for a significant number of north-east bound drivers to experience more than one display.
9. Much of the sign, because of its size, angle and illumination would be visible, and therefore likely to be able to be assimilated to some degree, from a significant distance away. However, even if within the drivers' cone of vision, it would still be likely to divert attention away from the highway ahead, due to the location on the opposite side of the wide road and also set away from the carriageway edge to a degree.
10. Furthermore, from that greater distance, based on the plans submitted, the lower part of the sign would be obscured to varying degrees by the building close by to the south-west, depending on the distance away and the lane of travel, until closer to the sign. Therefore, even if a driver were to have seen all of the displays prior to the closer approach, it would be unlikely to have been in the entirety. This would cause potential for distraction closer to the sign, likely

to be greater due to the increased angle of diversion away from the highway ahead.

11. I acknowledge that there would not be any moving images or flashing lights on any one display and that the display change would be instantaneous. However, the likelihood of a significant number of drivers having their attention drawn by more than one display would cause increased opportunities for distraction on the approach including closer to the sign if one display was not seen earlier, either at all or unclearly. The point at which the display would change from one to another would also be a potential source of distraction in itself.
12. Furthermore, and importantly, that oncoming traffic would be approaching a road junction where the road markings start to change opposite the site. This would introduce the likelihood of more lane changing manoeuvres and braking on the approach to the sign than would otherwise be the case.
13. Even if the number of accidents has not been large in this location, some have nevertheless been recorded. The introduction of the proposed sign, taking account of the above factors, would have the potential to cause significant additional distraction, disproportionately drawing the eye of drivers. This could cause sudden and unpredictable vehicle movements, increasing the risk of collisions with other vehicles, regardless of the past level of accidents.
14. I have taken account of the Public Safety Report submitted by the appellant and note that discussions have occurred with Highways England. I also note that there are other cases where similar signs have been installed alongside roads such as this. However, I have received no substantive evidence relating to a sign similarly located opposite motorway line changes associated with an approaching junction, where the only sign concerned is on the opposite side of the motorway and also partially obscured on the more distant approach. It is also claimed that there is no conclusive evidence to show that a correlation exists between advertising and road safety. However, I have not received any substantive evidence to support this claim or whether it relates to all types of advertising in all circumstances.
15. I acknowledge that the sign would replace existing sign panels, which could also have two separate advertisements displayed alongside each other at any one time, which in turn could increase the assimilation time. However those panels are not of the illuminated digital form, do not have changing displays, and are not as high above the motorway level. They are therefore not as prominent as the proposed sign would be, and as such, although parallel to the road and so not so easily seen on the approaches, are unlikely to draw the eye to the same extent as that proposed.
16. For the above reasons, the proposed advertisement would pose a risk to highway safety on the north-east bound carriageway of the M32 motorway. As such, and taking into consideration the Framework, the advertisement would be materially detrimental to public safety.

Appeal B

17. In light of my conclusions in respect of Appeal A, I have only focussed on the sign previously approved by the Council in my reasoning below.

Condition 1

18. The Council, in its condition 1, requires the removal of the signage concerned after five years unless it agrees otherwise in writing. The Council claims that this is necessary due to the existing limited studies into the safe location of road side digital signing and concerns about the possibility of significant changes in the area in five years time, such as the new metrobus scheme, other advertisements in the area and the removal of street lighting.
19. In respect of the general safety of such signs, I have received no substantive evidence relating to the limitations of the studies that have been carried out to date. I acknowledge that there may be changes in the area in five years time. However, I have no firm evidence to indicate that the advertisement would be likely to be unacceptable at the end of the five year period or any time up until then in respect of those changes.
20. Notwithstanding this, I note that there is provision within condition 7 of the permission for a highway safety audit to be submitted within 3 months following the third year of operation, together with any necessary resulting actions. Additionally, in respect of concerns relating to a loss of street lighting, condition 3 of the permission provides scope to secure a scheme to control the maximum luminance during hours of darkness.
21. Furthermore, were the sign considered necessary to be removed after five years to remedy a danger to members of the public, the Council would have the option to issue a discontinuance notice.
22. I therefore conclude in respect of condition 1 that it is not reasonable or necessary in respect of public safety. The suggested condition by the appellant to restrict the consent to a period of five years relates to the condition in provision 14(7) of Part 3 of the Regulations.

Condition 10

23. The appellant seeks an amendment to the frequency with which the display can change, from every 30 seconds to every 10 seconds.
24. I have had regard to the Council's concern relating to the number of times that drivers are distracted as they pass through the section of road where the display would be seen. A 10 second frequency would expose more drivers to seeing the change in display, particularly on the closer approach to the sign concerned. However, I have had regard to the factor that the sign concerned would be positioned adjacent to the carriageway concerned. Drivers' attention would therefore not be drawn significantly away from the highway ahead regardless of the display change frequency. The level of distraction for any one driver experiencing the change in display would be unlikely to differ with a different frequency of change, regardless of the potential for more drivers to be exposed to it.
25. I have had regard to the potential for drivers to experience several display changes with the 10 second frequency. However, I consider that such an interval would not be short enough to amount to the advertisements appearing more animated, their intention being to enable viewers to easily take in the content of any one display. In this respect, I have also taken account of the likelihood of the content of sign not being fully legible from those further distances from where it could be seen, such that it would be unlikely for driver

attention to be drawn to multiple display changes, even when travelling at 40 miles per hour.

26. It would therefore be acceptable for the display change frequency to be 10 seconds.

Condition 12

27. In light of my conclusions in respect of Appeal A, I have had regard to the appellant's claim that it would not be commercially viable to remove all of the existing advertising and the wish to retain panels 4 and 5 as labelled on Dwg No PP003.
28. I note that the advertisement structure concerning the sign approved by the Council would wrap around the part of the building on which existing advertisements 2, 3 and 4 are located. As those signs, if retained, would be partially seen beneath the new sign, this would have the potential to cause an excessively cluttered appearance to the exterior of the building concerned. This would be to the detriment of the visual appearance of the area as seen particularly from the M32, an important and heavily used approach into the city. However, sign number 5 would still be sufficiently separated from the new sign so as to prevent that same cluttered appearance. It would therefore be acceptable and reasonable, given the circumstances relating to Appeal A, for sign 5 to be retained, but not sign 4.

Conclusion

29. For the above reasons, in respect of Appeal A, I conclude that the appeal is dismissed.
30. In respect of Appeal B, I conclude that it would be acceptable to vary conditions 10 and 12 in the manner referred to in my reasons. In light of my findings in respect of condition 1, that condition is no longer required and the condition in provision 14(7) of Part 3 of the Regulations would apply. Therefore, the advertisement consent should be varied as set out in the formal decision.

Andrew Dawe

INSPECTOR