



Appeal Decision

Site visit made on 11 July 2019

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 October 2019

Appeal Ref: APP/Z0116/G/18/3209467

Land at St Annes Road, St Annes, Bristol

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a Discontinuance Notice relating to the use of a site for the display of advertisements with deemed consent.
 - The appeal is made by Mr Ben Porte of Insite Poster Properties against discontinuance action by Bristol City Council.
 - The Discontinuance Notice is dated 26 June 2018.
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Decision

1. The appeal is dismissed. The Discontinuance Notice shall come back into effect immediately and the use of the site for the display of advertisements with deemed consent cease by the end of 8 weeks from the date of this decision.

Procedural Matters

2. I note that the site to which the Discontinuance Notice relates is described in the First Schedule to the notice as 'Land at St Annes Road' but is identified on the plan attached to the notice as 'St Anne's Road'. For the purposes of this decision, I will adopt the spelling of 'St Annes Road' as set out in the First Schedule to the notice and also, I noted, as spelt on the street name sign. In any event, it is apparent that the appellant has understood to which site the notice is directed and I am satisfied that the appellant has not been prejudiced by the slight discrepancy between the spelling of the road name in the First Schedule to the notice and on the plan attached to the notice. For that reason, it is not necessary for correct the spelling on the plan attached to the notice.
3. Although directed at the whole of the land shown on the plan attached to the notice, the Discontinuance Notice relates specifically at an externally illuminated 48-sheet advertisement display located on the southern edge of the site. The location of this free-standing advertisement is clearly shown on the plan attached to the Discontinuance Notice. I note from the Grounds of Appeal that the appellant has picked up on this and has framed his case accordingly. I am therefore satisfied that the Discontinuance Notice is sufficiently clear in this respect.

Main Issue

4. The main issue is whether the continued use of the site for the display of advertisements would cause substantial injury to amenity.

Reasons

5. The appeal site lies on a roundabout joining St Annes Road with Wooton Road and Wyatts View. The surrounding area is of mixed character. To the west is an area of predominantly industrial/commercial development, designated in the Bristol City Council Local Plan as a Principal Industrial and Warehousing Area. To the north-east is a retail complex and the car parking area associated with that. The area to the south and east is predominantly residential in character. The site also lies within the Avon Valley Conservation Area which, I understand, was initially designated in the 1980's and subsequently re-appraised by the City Council in or around 1993.
6. The appeal site itself comprises an area of mature vegetation between the roundabout and the River Avon. A footpath leads from the roundabout to a footbridge over the River Avon and which I noted during my site visit is well used by members of the public. It is also apparent from the third party representations received that this footpath forms part of a local route connecting the River Avon with St Anne's Wood, and as such forms part of the local amenity. This area of vegetation has the effect of softening the street scene, and forms an important visual break at the interface of the industrial/commercial, retail and residential areas that surround the site.
7. Because the advertisement display subject to the notice is typically viewed against the backdrop of the area of vegetation, it has no appreciable visual association with the industrial/commercial buildings to the west. Consequently, it is viewed primarily in association with the area of vegetation immediately behind it. In these views, by reason of its size and appearance, the advertisement constitutes a dominant physical structure in an otherwise soft visual setting. Moreover, the very presence of the overtly commercial advertisement display appears visually incongruous in this location both in daylight and (even more so) at night, when the advertisement is illuminated.
8. My own conclusion in this respect is reinforced by the findings of the Inspector in dismissing a previous appeal for a proposed advertisement on this site (APP/Z0116/Z/17/3187751). In referring to the existing advertisement on this site (in other words, the advertisement now subject to this discontinuance notice), the Inspector describes it as being "visually exposed, conspicuous and looked out-of-place within this landscaped area". I note that the Inspector reached that conclusion based on a site visit made during the winter months when, to adopt his phrase, defoliation had occurred. The Inspector's findings therefore tend to suggest that the prominence of the advertisement remains unchanged irrespective of the seasons.
9. The injury to amenity caused this advertisement is exacerbated by the fact that the site is within the Avon Valley Conservation Area. I take the appellant's point that the City Council has not considered the advertisement having regard to an up-to-date appraisal of the significance of this heritage asset. However, in my assessment, the significance of the Avon Valley Conservation Area derives, in part at least, from its association with the River Avon. The area of mature vegetation in front of which the advertisement is located provides an important visual link with, and setting for, the River Avon. Consequently, by extension, the injury to amenity resulting from the presence of this advertisement fails to preserve or enhance the character or appearance of the conservation area.

10. I am also mindful of the significant number of third party representations that have been received, both from individual local residents and the Bristol Civic Society, all objecting to the retention of this advertisement. The grounds of objection include the impact on the amenity of the area, and in that respect rehearse essentially the same concerns that I have set out above. The grounds of objection also refer to the impact on residential amenity, specifically in relation to the occupiers of the residential flats on the opposite side of the roundabout. I concur with the views expressed in these objections that the advertisement is visually intrusive when viewed from those properties and unacceptably detracts from amenity enjoyed by those occupiers, particularly during the hours of darkness when the advertisement is illuminated.
11. For all these reasons, I am satisfied that in this case the advertisement display reaches the stricter threshold of causing substantial injury to amenity necessary to justify the issue of a discontinuance notice. In reaching that conclusion, I recognise that the site has been used for the display of advertisements since at least 2002 and that there has been no material change in the circumstances at this site or in the locality. However, that does make the continued use of the site for the display of advertisements acceptable: it merely means that the substantial injury to the amenity of the area has been ongoing for all of that time albeit, until now, without intervention by the City Council.

Other matters

12. Concerns have been expressed in the third-party representations in terms of highway safety, given the proximity of the advertisement to the roundabout. However, the advertisement is primarily viewed by drivers approaching along Wooton Road. When approaching from that direction, the advertisement is clearly visible from some distance away, such that drivers and other road users can comfortably assimilate the information displayed. I therefore see no reason to depart from the position adopted by the City Council in this respect, which considers that the advertisement does not cause substantial harm to public safety.
13. The City Council cites a number of development plan policies in the reasons for taking discontinuance action, as set out in the Second Schedule of the Discontinuance Notice. However, powers under the Regulations to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. In determining this appeal, I have taken account of the policies in the development plan as a material consideration but they have not, in themselves, been decisive.

Conclusion

14. Taking all the above considerations into account, and applying the relevant test set out in the Regulations, I conclude that the continued use of the site for the display of advertisements would cause substantial injury to amenity. I therefore dismiss the appeal and uphold the Discontinuance Notice.

Paul Freer

INSPECTOR