



Appeal Decision

Site visit made on 1 October 2019

by Richard Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday, 07 November 2019

Appeal Ref: APP/C1570/H/18/3196941

Virdee Auto Centre, White Roding Filling Station, Chelmsford Road, White Roding, Dunmow CM6 1RG

- 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 Jay Virdee against the decision of Uttlesford District Council.
 - The application Ref UTT/17/3342/AV is dated 6 November 2017. The condition in dispute is No. 1 which states that: *'The adverts hereby permitted to be displayed to be displayed by this consent should only be illuminated during the opening hours of the premises to which it relates unless otherwise agreed by the local planning authority'*.
 - The reason given for the conditions is *'in the interests of visual amenity and to protect the amenities of adjoining occupiers in accordance with local policy Gen2 and the national planning policy framework'*.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have used the address given on the appeal form in the banner heading above as this is more accurate than the one given on the application form. The appeal follows the grant of Express Advertisement Consent for the retention of illuminated signage on an existing totem pole. The consent contained conditions relating to the duration and brightness of illumination but the appellant's evidence does not specifically refer to the condition in dispute. It does state however that 'we would only have the sign illuminated to 12pm', in order to protect the amenities of adjoining occupiers'. The appellant also states that the premises are 'technically open' 24 hours due to a recovery service and the lights could be illuminated for that cycle.
3. Condition 1 does not specifically state the hours of opening but I observed that the signage on the entrance door to the reception stated a closing time of 1700 hours during the week. On other days, working hours were no later than early evening. In determining this appeal, it is not for me to establish whether a breach of the condition would occur if the appellant chose to operate the signage on a 24 hour basis. Whatever the case may turn out to be, an appeal has been made against conditions granted on an express consent and it is that appeal which is before me and which I must determine.
4. Consequently, I have taken this as being an appeal against Condition 1 which restricts the illumination of the sign to the opening hours of the premises. Having sought further clarification from the appellant the hours of illumination

requested are between 0800 hours and midnight, albeit I also note that the intention is for the sign to only be illuminated from dusk onwards. The Council have also confirmed they do not wish to contest the appeal but have provided no explanation for that decision.

Main Issue

5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply to advertisements. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007, makes it clear that advertisements are subject to control only in the interests of amenity and public safety. Accordingly, the main issue in this appeal is whether the variation of Condition 1 would be acceptable, having regard to the amenity of the area and public safety.

Reasons

6. The appeal site is located on the periphery of White Roding, a rural settlement and lies opposite open agricultural fields and between residential properties, set out in a ribbon form along the A1060. Notwithstanding the commercial nature of the appeal site there is a strong sense of rurality and an appreciation of the intrinsic character and beauty of the countryside in this rural area.
7. I have no public safety concerns and note that it was a replacement for a previous sign of a similar scale, although that sign appears to have been non-illuminated¹. However, the advertisement is 5.6 metres tall and 1.5 metres wide and in combination with its siting forms a dominant and imposing feature in this rural streetscene, appearing of a comparable height to the chimneys on neighbouring 2 storey cottages on the approach from the west.
8. Although I was only able to view the sign's illumination during an autumn morning the duration of illumination requested would stretch well into the later hours of the night. There is likely to be some low levels of artificial light from adjoining residential properties at such times but there is no other light source, including street lighting, that would be comparable in terms of visual dominance or duration of illumination. In this rural context with much darker skies at night, this extent and duration of illumination would result in a visually jarring and incongruous advertisement that would be wholly detrimental to the visual interests and amenities of the area. Such incongruity is also likely to be evident from neighbouring residential properties.
9. To my mind, it is unlikely that the commercial operation of a 24 hour recovery service would be dependent on passing vehicles and the A1060 is a rural road with low volumes of traffic during the night. Accordingly, there are no other considerations before me that would outweigh or justify the effects on amenity.
10. For these reasons, the variation of Condition 1 would not be acceptable as it would cause unacceptable harm to the amenity of the area. I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR

¹ Representation from a neighbouring occupier referred to in the Council's officer report.