

Appeal Decision

Site visits made on 25 July 2019

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th November 2019

CASE DETAILS

All Appeals

- The appeals are made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeals are made by Mr Neil Scoresby, British Telecommunications plc, against the decision of Portsmouth City Council.
 - The advertisement proposed is two internally illuminated LED digital display screens, one located on each side of the InLink Unit.
 - The date of the applications is 19 April 2018.
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Appeal A Ref: APP/Z1775/Z/18/3210981

Land adjacent to 377 London Road, Portsmouth PO2 9HL

- The application, Ref. 18/00650/ADV, was refused by Notice dated 16 July 2018.
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Appeal B Ref: APP/Z1775/Z/18/3210985

Land adjacent to 130 London Road, Portsmouth PO2 9DE

- The application Ref. 18/00652/ADV, was refused by Notice dated 16 July 2018.
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Appeal C Ref: APP/Z1775/Z/18/3210987

o/s Lidl, 55-73 London Road, Portsmouth PO2 0BH

- The application Ref. 16/00653/ADV, was refused by Notice dated 16 July 2018
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Appeal D Ref: APP/Z/1775/Z/18/3210990

o/s Aldi, Nr junction of Kingston Crescent with Gamble Road, Portsmouth PO2 8AL

- The application, Ref. 18/00654/ADV was refused by Notice dated 20 July 2018
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Appeal E Ref: APP/Z1775/Z/18/3210995

Land adjacent Enterprise House, 18 Isambard Brunel Road

- The application Ref. 18/00668/ADV, was refused by notice dated 17 July 2018.
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Appeal F

Appeal F Ref: APP/Z1775/Z/18/3211012
o/s 163 Queen Street Portsmouth PO1 3HT

- The application Ref. 18/00673/ADV, was refused by notice dated 16 July 2018.
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Appeal G Ref: APP/Z1775/Z/18/3211047
Land adjacent to 41 Palmerston Road, Southsea PO5 3QQ

- The application, Ref. 18/00676/ADV, was refused by notice dated 17 July 2018.
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Appeal H Ref: APP/Z1775/Z/18/3211050
o/s Barclays Bank, 90 Osborne Road, Southsea PO5 3LW

- The application Ref. 18/00677/ADV, was refused by notice dated 17 July 2018.
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Summary of Appeal Decisions

1. Appeals E and F are dismissed.
2. Appeals A, B, C, D, G and H are allowed, with the Formal Decisions for these and Appeals E and F set out in paragraphs 47-54 below and the conditions for the allowed appeals in the Appendix to this Decision.

Preliminary and Procedural Matters

3. This appeal decision letter is in respect of the Council's refusal of advertisement consent for internally illuminated advertisements in a total of eight 'InLink' units in various locations in the Borough. The applications for advertisement consent were accompanied in each case by an application for prior approval for the installation of an InLink Unit. All eight applications for prior approval were refused, with appeals made but subsequently withdrawn.
 4. In the event that these appeals had accompanied their advertisement appeals they would have raised essentially the same main issue as set out in paragraph 8 below, albeit arising from an appraisal of the siting and appearance of each InLink Unit as a new structure in its particular context. However, in the advertisement appeals that are the subject of this Decision letter, I must confine my assessment to the effect of the internally illuminated LED digital display screens on their immediate surroundings and the wider street scene. Accordingly, such matters as 'clutter', the InLink unit's appearance, or pavement obstruction are not matters before me in these appeals.
 5. Insofar as it is relevant to the additional considerations arising in respect of the siting and appearance of InLink units, the weight attached to my decisions on the advertisement appeals will be a matter for the decision-maker on any future prior approval applications and / or appeals.
 6. Policy PCS23 of the Portsmouth Plan 2012 seeks to safeguard the city's character and heritage and is a material consideration in this case. The
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National Planning Policy Framework 2019 ('the Framework') is similarly a material consideration and sets out the relevant current Government policies. Paragraph 132 advises that the quality and character of places can suffer when advertisements are poorly sited and designed. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts. Section 16 of the Framework sets out Government policy on the Conservation and Enhancement of the Historic Environment. In the allowed appeals it can be assumed that in my judgement there is no harmful conflict with any of the above.

7. In a number of these appeals there are different addresses for the site of the proposed advertisement on the appellant's and Council's documents. I have used the address that, from observation at my visit, I consider to be the most accurate.

Main Issue

8. The main issue in all the appeals is the effect of the proposed internally illuminated digital LED advertisement displays on the visual amenity of the street scene and in the case of Appeals G & H also the effect on the setting of the Stanley Street and the 'Owen's Southsea' Conservation Areas respectively. I note that in the case of Appeal F (outside 163 Queen Street) the refusal of the prior approval application included a reference to the effect on the Portsea Conservation Area and nearby listed buildings. However, this is not part of the Council's objection to the advertisement display as set out in the Notice of Refusal.

Reasons

All Appeals: General Comments

9. The Notices of Refusal use the same wording in all the appeals to summarise the Council's objection to the proposed advertisement displays. This refers to what is considered to be the display's excessive scale, high level of luminance and prominent siting on the public highway. It is argued that the combined effect of these would be one of a visually obtrusive and over-dominant feature that would amount to excessive clutter detrimental to the visual amenity of the wider street scene.
10. However, in the case of Appeal G, Land adjacent to 41 Palmerston Road, Southsea, the Council also considers that the advertisement display would have a harmful impact on the setting of the adjoining Stanley Street Conservation Area. In the case of Appeal H, the Notice of Refusal refers to a harmful impact on the setting of the nearby 'Owen's Southsea' Conservation Area.
11. The Planning Officer's reports for the appeals all refer to a dismissed appeal decision for an InLink unit advertisement display at Eastney Road, whilst the Council's composite appeal statement cites a number of dismissed appeals for telephone kiosks and their advertising displays at sites in Commercial Road and other locations. However, each and every site has its particular context and it is this that is key to an informed and planning judgement as to the effect on visual amenity. In these circumstances I give very little weight to decisions at other sites in the city.

Appeal A: Land adjacent to 377 London Road

12. The appeal site is on the west side of the A2047, London Road, one of the main arterial routes linking the city to the north. The Council acknowledges that there are mainly commercial premises on the ground floor of the properties at the back of the pavement where the advertisements would be displayed, although I note that Woodfield House, the corner building to Meredith Road is wholly residential.
13. The immediate context for the InLink unit with its advertisement display is the street block between Meredith Road and Kipling Road to the north. Within this there are four shopfronts with fascia signage of different colours and designs. These include a car showroom and forecourt with banner advertisements on the 8m depth pavement, the latter also including a bus shelter with a dual sided advertisement panel at its northern end. On the opposite side of London Road the street block has about a dozen different shopfronts, again with a wide variety of fascia signs. There is also another bus shelter with advertising panels.
14. In this predominantly commercial context and with advertisements making a significant contribution to the character and appearance of the street scene, I do not consider that the proposed advertisement displays would draw the eye as being in any way alien to their context. Nor in my assessment would they represent an unacceptable cumulative effect.
15. For the above reasons I conclude that Appeal A should be allowed.

Appeal B: Land adjacent to 130 London Road

16. The site is on the east side of the A2047 close to its combined junction with Stubbington Avenue, Gladys Avenue and Angerstein Road. The Council has explained that the section of road, including the site of an InLink unit with the proposed advertisements in this appeal, is comprised of secondary frontage within the North End District centre. The primary frontage lies to the south.
17. I saw on my visit that the site is on the pavement fronting the street block between Stubbington Avenue to the south and Montague Road to the north. This junction and the first part of London Road to its north is overtly commercial in character with all of the premises in the block being A1, A2 or A3 uses with other uses typically found in a shopping centre, for example a betting shop and an employment agency. The street block on the opposite side of the road is similar in character, albeit with some of the upper gables suggesting a greater residential use.
18. The street scene includes premises that have especially deep fascias and large signage, whilst there are additionally some projecting signs. Bearing in mind this character and appearance, I do not consider that the display would be one of excessive scale. There are some modern buildings on both sides of the road and I do not regard the street scene as being especially 'traditional' in the sense of having merit.
19. I acknowledge that the internal illumination with its changing displays would be a new feature in this location but rather than being considered garish as the Council alleges, I consider it more likely that most patrons of the centre would

regard them as innovative and interesting. Furthermore, the illumination would be seen in the context of a continuous frontage of display windows that would be lit in the hours of darkness.

20. For the above reasons I conclude that Appeal B should be allowed.

Appeal C: o/s Lidl, 55-73 London Road

21. As with Appeals A and B, the site for the advertisement displays is on a stretch of pavement adjoining the A2047 and in this case the street scene forms part of a primary retail area within the North End District centre. The character and appearance of the area is markedly commercial with advertising signage varied and, in some cases, brash and of a disproportionate scale to the host building.
22. The particular site selected for the InLink unit is outside the extensive frontage of a Lidl store which has large cladding panels above its shopfront and two Lidl logos facing the shopping street. The Council's appeal statement says that the advertising panels would increase the prominence of the InLink unit and that the latter would have a prominent and visually intrusive appearance.
23. However, in my view the strongly commercial character of the street scene and the fact that the advertisement displays would be seen in association with the Lidl frontage and its dominant logos do not offer any support for the Council's judgement; indeed by comparison the advertisements would be subordinate to their immediate context.
24. For the above reasons I conclude that Appeal C should be allowed.

Appeal D: o/s Aldi, Near junction of Kingston Crescent & Gamble Road

25. Kingston Crescent forms part of the A2047 and links the junction of London Road / Kingston Road with a junction to the M275. The site for the InLink unit that would display these advertisements is only a short distance to the west of the junction and has a noticeably different character and appearance to the overtly commercial London and Kingston Roads.
26. Although part of the North End District Centre, the Crescent is tree-lined and includes residential uses, a large medical centre and modern office buildings as well as smaller A1 and A3 premises nearer the junction. However, the immediate setting of the appeal site is adjoining the shopfront of an Aldi supermarket, the vehicular access to which is via the nearby Gamble Road.
27. The appeal site is positioned between a bus shelter with display advertising and the large and prominent Aldi logo on a contemporarily designed gable element of the building. On the opposite side of the Crescent there is another bus shelter, also with advertising panels. However, it is the Aldi sign that draws the eye in views along the Crescent. And given that the proposed advertising panels would be seen against that backdrop and in close proximity to the existing bus stop advertising, I do not consider that they would be visually intrusive.
28. For the above reasons I conclude that Appeal D should be allowed.

Appeal E: Land adjacent Enterprise House, 18 Isambard Brunel Road

29. The area within which the appeal site is located appears to be a recently redeveloped part of the city centre with multi-storey buildings comprising student halls of residence, flats, an hotel and office buildings.
30. The existing advertising in this street scene appeared at my visit to be confined to the signage for the Premier Inn hotel, the Tesco convenience store on the ground floor of the hotel building and a display panel on the bus shelter positioned close to the building that bridges over Isambard Brunel Road.
31. Whilst there may be an argument that the public benefit of an InLink unit and its contemporary design in this location could support the case for the digital display advertising, this is not within my remit in this appeal. As regards the merits of the advertisements in their own right, I consider that there is an insufficiently appropriate commercial context for consent to be granted.
32. For the above reasons I conclude that Appeal E should be dismissed.

Appeal F: o/s 163 Queen Street Portsmouth

33. I saw on my visit that Queen Street is a wide thoroughfare comprised mainly of C20th multi-storey buildings, although others appear of more recent origin. The more immediate setting for the appeal site is a shopping parade of about half a dozen units, but including an A3 use and a betting shop.
34. A bus layby results in the narrowing of what is otherwise a particularly wide pavement and the site proposed for the InLink unit with its advertising display is at the layby's eastern end in front of a 7 / 8 storey block of flats. Bearing in mind the advertising on the fronts of the commercial premises and the displays at the eastern end of the bus shelter, I do not consider that there is necessarily an 'in-principle' objection to the appeal proposal in this section of Queen Street.
35. However, the displays would be in an InLink unit that would be positioned close to the kerb edge and thereby well forward of the bus shelter and other street furniture in this street block. This prominence in longer views up and down a street that in its wider setting has relatively limited existing advertising would result in an unacceptable extent of visual intrusion.
36. The effect of this intrusion on the listed buildings on the other side of the street and the setting of the Portsea Conservation Area to the east is an issue best addressed in any future appraisal of an application for an InLink unit, not least because the matters of less than substantial harm and public benefit can be taken into account on a more comprehensive basis.
37. For the above reasons I conclude that Appeal F should be dismissed.

Appeal G: Land adjacent to 41 Palmerston Road, Southsea

38. The appeal site is within the Palmerston Road pedestrian precinct near its junction with Stanley Street. The precinct forms part of the main shopping area for the town centre of Southsea and accordingly its character is in large measure defined by the shopfronts and associated fascias of the local and national multiple retail outlets and other associated town centre premises.

39. The essence of this sort of shopping centre is the frontage advertising above and within the shop windows seeking to persuade customers to come inside the premises. Advertising displays are part and parcel of the character and appearance of the precinct and I therefore see no objection to the appeal site being used for advertisement displays. This is subject to an InLink unit being acceptable under its separate approval procedure, which as I have already explained is not part of my remit in this appeal. I note the strong objections from the Portsmouth Society that are referred to in the officer's report but these appear to relate mainly to the InLink unit itself.
40. As regards the effect on the setting of the Stanley Street Conservation Area, this has been designated because of the terraces of period Victorian houses. However, the first part of Stanley Street from its junction with Palmerston Road is comprised of the bland flanks of the frontage commercial premises to either side. Given the relatively modest scale of the advertising displays; the fact that they would be an integral part of an item of street furniture in the precinct with orientation north and south along Palmerston Road, and that there is a clear separation from the residential part of Stanley Street, I cannot see any reason why the setting of the conservation area would be harmed.
41. For the above reasons I conclude that Appeal G should be allowed.

Appeal H: o/s Barclays Bank, 90 Osborne Road, Southsea

42. The appeal site is close to the junction of Palmerston Road and Osborne Road and within the Secondary Retail Area and Restaurant Quarter of Southsea town centre, as designated in the Town Centre Action Plan. The immediate context is one of a busy shopping centre with three-storey C20th buildings including two banks and a jewellers adjoining the pavement where the advertisements would be positioned. There is a large Debenhams department store on the opposite side of the road.
43. In addition to the prominent signage associated with the commercial premises there is a bus shelter with advertisement displays between the appeal site and the road junction. Given this strongly commercial character and appearance with its existing extensive advertising, I consider that additional displays of the fairly modest scale in the InLink unit would be in keeping with the street scene.
44. The Notice of Refusal refers to an adverse impact on the setting of the 'Owen's Southsea' Conservation Area further along Osborne Road. I agree that the potential siting of an InLink unit on the appeal site would be part of the setting. However, because the implementation of any advertisement consent is predicated on the prior approval of the InLink, this is again an issue best addressed in any future appraisal of an application for that structure, not least because the matters of less than substantial harm and public benefit can be taken into account on a more comprehensive basis.
45. For the above reasons I conclude that Appeal H should be allowed.

Conditions:

46. In allowing Appeals A, B, C, D, G, & H, the consents are as a matter of course subject to the five standard conditions in the Advertisement Regulations.

However, I also consider that additional conditions are needed and I have based these on a list of operating conditions which have previously been accepted by the appeal parties in other InLink unit advertisement appeals. These include my decision in February 2019 to allow the appeal for an InLink unit advertisement display on an already approved InLink unit opposite 40-44 Marmion Road, Portsmouth. I consider that these, together with the five standard conditions, will protect the visual amenity of the area and maintain public safety. These operating conditions are set out in the Appendix to this Decision.

Formal Decision: Appeal A: Land adjacent to 377 London Road, Portsmouth

47. The appeal is allowed and express consent is granted for the display of two internally illuminated LED digital display screens, one located on each side of the InLink Unit, as applied for. The consent is for five years from the date of this Decision and is subject to the five standard conditions set out in the Regulations and to the additional conditions in the attached Appendix.

Formal Decision: Appeal B: Land adjacent to 130 London Road, Portsmouth

48. The appeal is allowed and express consent is granted for the display of two internally illuminated LED digital display screens, one located on each side of the InLink Unit, as applied for. The consent is for five years from the date of this Decision and is subject to the five standard conditions set out in the Regulations and to the additional conditions in the attached Appendix.

Formal Decision: Appeal C: o/s Lidl, 55-73 London Road, Portsmouth

49. The appeal is allowed and express consent is granted for the display of two internally illuminated LED digital display screens, one located on each side of the InLink Unit, as applied for. The consent is for five years from the date of this Decision and is subject to the five standard conditions set out in the Regulations and to the additional conditions in the attached Appendix.

Formal Decision: Appeal D: o/s Aldi, Near junction of Kingston Crescent & Gamble Road, Portsmouth

50. The appeal is allowed and express consent is granted for the display of two internally illuminated LED digital display screens, one located on each side of the InLink Unit, as applied for. The consent is for five years from the date of this Decision and is subject to the five standard conditions set out in the Regulations and to the additional conditions in the attached Appendix.

Formal Decision: Appeal E: Land adjacent Enterprise House, 18 Isambard Brunel Road

51. The appeal is dismissed.

Formal Decision: Appeal F: o/s 163 Queen Street Portsmouth

52. The appeal is dismissed.

Formal Decision: Appeal G: Land adjacent to 41 Palmerston Road, Southsea

53. The appeal is allowed and express consent is granted for the display of two internally illuminated LED digital display screens, one located on each side of

the InLink Unit, as applied for. The consent is for five years from the date of this Decision and is subject to the five standard conditions set out in the Regulations and to the additional conditions in the attached Appendix.

Formal Decision: Appeal H: o/s Barclays Bank, 90 Osborne Road, Southsea

54. The appeal is allowed and express consent is granted for the display of two internally illuminated LED digital display screens, one located on each side of the InLink Unit, as applied for. The consent is for five years from the date of this Decision and is subject to the five standard conditions set out in the Regulations and to the additional conditions in the attached Appendix.

Martin Andrews

INSPECTOR

APPENDIX

(Conditions are additional to the 5 standard conditions in Part 5, Schedule 2 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 [S.I. 2007 No. 783])

- 1) The intensity of the illumination of the digital signs shall not exceed the maximum permitted recommended luminance for an advertisement of this type and proposed location as set out by The Institute of Lighting Professionals' *PGL 5: Brightness of Illuminated Advertisements (2015)*;
- 2) The digital sign shall not display any moving, or apparently moving, images (including animation, flashing, scrolling three dimensional, intermittent or video elements);
- 3) The minimum display time for each advertisement shall be 10 seconds;
- 4) The interval between advertisements shall take place over a period no greater than one second; the complete screen shall change with no visual effects (including fading, swiping or other animated transition methods) between displays and the display will include a mechanism to freeze the image in the event of a malfunction;
- 5) No advertisement displayed shall resemble traffic signs, as defined in section 64 of the Road Traffic Regulation Act 1984.