



Appeal Decision

Site visit made on 6 January 2020

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 23rd January 2020

Appeal Ref: APP/A2280/H/19/3236646

Land at Gun Lane, Gun Lane, Rochester ME2 4HU

- 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 Insite Poster Properties Ltd against the decision of The Medway Council.
 - The application Ref MC/19/1600 dated 17 June 2019, was approved on 8 August 2019 and express consent was granted subject to conditions.
 - The development permitted is installation of an internally-illuminated 48 sheet digital advertisement display (removal of existing advertisement displays).
 - The conditions in dispute are Nos 1 and 8 which state that:
Condition 1: The advertisement consent hereby granted shall expire at the end of 1 year from the date of this consent. The sign and associated frame and construction material shall be removed from the land unless otherwise agreed in writing by the Local Planning Authority on or before 30 September 2019.
Condition 8: The display shall not change more than once every 15 seconds and the interval between successive displays shall be instantaneous (0.1 seconds or less).
 - The reasons given for the conditions are:
Condition 1: To allow the Local Planning Authority an opportunity to assess the effect of the display on highway and pedestrian safety in accordance with Policy BNE10 of the Medway Local Plan 2003.
Condition 8: To ensure that the display does not prejudice conditions of visual amenity or highway safety in accordance with Policy BNE10 of the Medway Local Plan 2003.
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Decision

1. The appeal is allowed and the advertisement consent Ref MC/19/1600 for the installation of an internally-illuminated 48 sheet digital advertisement display (removal of existing advertisement displays) at Land at Gun Lane, Gun Lane, Rochester ME2 4HU granted on 8 August 2019 by The Medway Council is varied by deleting conditions 1 and 8. Condition 8 will be substituted for the following condition: 'The display shall not change more than once every 10 seconds and the interval between successive displays shall be instantaneous (0.1 seconds or less)'. The consent is for five years from the date of this decision.

Main Issue

2. The main issue is whether Conditions 1 and 8 of advertisement consent ref: MC/19/1600 are necessary or reasonable in all other respects.

Reasons

3. The appeal site is located near to the junction of Gun Lane with A228 and North Street. The proposed sign would be located facing south west such that

the illuminated display would only be visible to drivers approaching along Gun Lane from the south.

4. Condition 1 restricts the period of consent of the permitted advertisement to one year and requires the sign and associated frame to be removed unless otherwise agreed in writing. There are few other traffic information signs or illuminated signage in the vicinity of the appeal site that are visible from this approach. Therefore, the proposal would not obscure or hinder the ready interpretation of any traffic signs. In addition, the sign would be raised approximately 2.5 m above ground. Therefore, it would be viewed for a reasonable distance as drivers approach from the south and this would provide adequate opportunity for drivers and pedestrians to assimilate the advertisement as they approach.
5. While the proposal would introduce illuminated digital advertisement with changing display in place of the existing non-illuminated signs, the proposal would also remove the larger existing sign and the proposed sign would be positioned roughly perpendicular to the highway. Therefore, the sign would be likely to provide limited additional distraction to pedestrians and motorists compared with the existing signs. In addition, the proposal would not be sited directly opposite nearby residential properties such that the illumination would be unlikely to cause any detrimental effects in this respect.
6. I also acknowledge that there is a school further along Gun Lane. However, the access to the school is a significant distance from the appeal site. Therefore, motorists and pedestrians associated with the school would have adequate time to take in the limited additional distraction of illumination and changing display on approach such that it is unlikely that there would be adverse effects on public safety in this respect. Consequently, a one-year limit on express consent is not justified. The latter part of the condition requires the sign to be removed after one year and I note the error regarding the date. However, this clause would not provide the appellant an opportunity to apply for express consent to retain the advertisement beyond a year and is therefore not necessary or reasonable in all other respects.
7. I note that there are not any other similar signs in the vicinity of the appeal site and I acknowledge the comments of the Council's Transport Officer. However, for the foregoing reasons I do not consider that the proposed sign would be likely to have adverse effects on visual amenity and public safety compared with the existing signs to justify a one-year limit on express permission. Moreover, there is little evidence before me to indicate that the advertisement would be unlikely to be acceptable after one year. In addition, the advertisement would be subject to the standard conditions set out in Schedule 2 of the Regulations¹.
8. While I acknowledge that a one-year consent for advertisement was considered appropriate for another proposal, each case must be determined on its individual merits and this point has not altered my finding on this part of the main issue.
9. Condition 8 restricts the rate of change of display to once every 15 seconds rather than once every 10 seconds as applied for. While I acknowledge the proximity to the school, there is little evidence before me to indicate that the increased rate of change of display would harm visual amenity or public safety compared with the fall-back position of the slower rate.

¹ The Town and Country Planning (Control of Advertisements) (England) Regulations 2007

10. Consequently, Conditions 1 and 8 of advertisement consent ref: MC/19/1600 are not necessary or reasonable in all other respects. They would therefore be contrary to paragraph 55 of the National Planning Policy Framework and Planning Practice Guidance. The removal of these conditions and a substitution of condition 8 as described above would not result in a conflict with Policy BNE10 of the Medway Local Plan Adopted May 2003 with relates to advertisements.

Conclusion

11. For the reasons given above I conclude that the appeal should succeed. I will vary the express consent by deleting the disputed conditions and substituting others.

R Sabu

INSPECTOR