



Appeal Decision

Site visit made on 20 January 2020

by E Symmons BSc (Hons), MSc

an Inspector appointed by the Secretary of State

Decision date: 10 February 2020

Appeal Ref: APP/V2004/H/19/3239819

35-37 Pryme Street, Kingston-upon-Hull HU2 8HR

- 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 Clear Channel UK against the decision of Kingston-upon-Hull City Council.
 - The application Ref 19/00903/ADV, dated 26 July 2019, was approved on 23 September 2019 and planning permission was granted subject to conditions.
 - The development permitted is for a hoarding sign with digital screen (to replace existing 48 sheet advertisement hoarding sign).
 - The conditions in dispute are No 6 which states that: advertisements/images displayed on the hereby approved hoarding with a digital screen shall be changed no more frequently than once every 30 seconds and No 7 which state that: the maximum night time (hours of darkness) illuminance level of the hereby approved hoarding sign with a digital screen shall be 250cd/m².
 - The reason given for the conditions is in the interests of amenity, public safety and highway safety, and to comply with policies 14, 20 and 26 of the Hull Local Plan.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant contends that Policies 14, 20 and 26 of the Hull Local Plan 2016-2032 (2017) (Local Plan) are not material to this appeal quoting the Town and Country Planning (control of Advertisements)(England) Regulations 2007 (as amended). Regulation 3 requires that local planning authorities control the display of advertisements in the interests of amenity and public safety, taking into account the provisions of the development plan, in so far as they are material, and any other relevant factors. Although the policies do not expand upon the relevant legislation and the Planning Practice Guidance on Advertisements¹ this does not mean that they are not relevant. Policy 14 relates to visual impact upon the environment and Policies 20 and 26 relate to highway safety. As both are relevant to matters of amenity and public safety, I have given them full weight within this decision.
3. Condition 6 of the Council's Decision Notice specifies that the changeover should be no more frequent than every 30 seconds. However, the appellant's statement of case states that the condition relates to a 15 second changeover. As the appellant proposes a changeover no more frequent than every

¹ Updated July 2019

10 seconds, I have considered the appeal on the basis of a proposed increase in changeover frequency from 30 to 10 seconds, rather than from 15 to 10 seconds.

Main Issue

4. The main issue is whether the condition is necessary having regard to matters of amenity and public safety as set out in The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the 'Regulations').

Reasons

5. The current free standing poster and paste advertisement panel is to the west of the entrance to Pryme Street car park. The panel measures three by six metres and is externally illuminated. As observed during my site visit the display faces, and is separated by the car park from, the A165 Freetown Way which is a dual carriageway. The backdrop to the panel is mainly commercial being dominated visually by the Travelodge and a multi-storey car park. On approach along Freetown Way, the advertisement panel is also seen within the context of the adjacent surface car park signage and street lighting.
6. Express consent has been granted to upgrade the existing advertisement to a digital display. The size, position and orientation would not alter. In granting express consent subject to conditions 6 and 7, the Council was satisfied that the advertisements would be acceptable in the interests of amenity and public safety, as evidenced in the Planning Officer's Report.
7. Condition 6 limits the frequency with which the static image changes ensuring this is no more frequently than every 30 seconds. Condition 7 relates to the night time illuminance level which is restricted to 250 candela per square metre (cd/m^2) as compared with a daytime level of 300 cd/m^2 .
8. The original application included an image changeover of 10 seconds and an illuminance of 300 cd/m^2 . The Council have justified the use of the conditions on the basis of comments received by Highway Officers. During the determination of the application and following correspondence between the main parties to resolve the highway concerns, it was agreed that a changeover time of no more frequently than 30 seconds was appropriate, and this led to inclusion of condition 6. The Council did not produce any accident records to support this frequency of changeover however, it does refer to the start/stop nature of queuing traffic during the evening peak hours.
9. As seen during my site visit, the part of the Freeway which passes the display goes through a set of pedestrian lights before reaching the major junction ahead. It is likely that the combination of the junction and pedestrian crossing cause traffic queues during busy periods. Technical advice received by the Council considers that within more slowly moving traffic, a ten second changeover time could distract drivers and cause potential for shunts. The appellant suggests that if the display changes no more than every 10 seconds, drivers will just glance at it and then drive on. No supporting technical advice has been advanced by the appellant regarding the behaviour of drivers within queuing traffic and I have no certainty that a more frequent changeover would not result in accidents such as those cited by the Council.
10. The appellant contends that the reasons for the appeal are commercial as the existing imposed conditions will impact sales. The appellant also refers to other

digitised panels within their portfolio with more frequent changeover times. No further evidence such as highway conditions associated with these signs or details of their positions have been provided to support these claims. Consequently, I consider that condition 6 is appropriate to the road conditions present.

11. Illuminance levels of 300 cd/m² are at the upper end of that suggested within the national guidance cited. Although the appellant was sent condition 7 prior to determination of the application, no comment was made on the proposed night time level of 250 cd/m². This led to inclusion of condition 7. As observed during my site visit, the display will be clearly visible and prominent from the A165 particularly since there are few other illuminated features visible from this approach. The appellant states that the issue of illumination is secondary and no evidence to support a higher illuminance level has been provided. In the absence of such evidence I consider condition 7 is appropriate to the highway conditions in the vicinity of this illuminated display.
12. In the absence of technical evidence relating to the road conditions in the vicinity of the display, commercial factors which require a more frequent advertisement turnover would not outweigh highway safety concerns. The proposals to vary conditions 6 and 7 would conflict with policies 14, 20 and 26 of the Local Plan.
13. For the reasons discussed and in the absence of evidence to the contrary, the existing conditions are necessary and reasonable in the interests of amenity and public safety. The appeal is therefore dismissed.

E Symmons

INSPECTOR