
Appeal Decision

Site visit made on 8 October 2019 by AJ Sutton BA Hons DipTP DMS MRTPI

by R C Kirby BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th February 2020

Appeal Ref: APP/B1605/Z/19/3227834

Os Longfield, 4 Pittville Street, Cheltenham, GL52 2LJ

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr Nathan Still (Infocus Public Networks Ltd) against the decision of Cheltenham Borough Council.
 - The application Ref 18/02528/ADV, dated 27 November 2018, was refused by notice dated 25 April 2019.
 - The advertisement proposed is described as 'the display of single illuminated sequential display affixed to the frame of the communication hub'.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The proposal is for an advertisement to be positioned in a glazed panel on the reverse side of a telecommunication kiosk for which the appellant has sought separate consent. At the time of conducting the site visit, the kiosk was not constructed. The appellant has provided plans and images of the proposed kiosk which were submitted with the respective planning application. This information is considered material in so much as it provides clarity as to the overall appearance of the proposed advertisement. However, beyond this, the decision is limited to the consideration of the proposal before me.
4. The Council has drawn my attention to the policies and guidelines it considers to be relevant to these appeals and I have taken them into account as material considerations where relevant. However, powers under the Regulations¹ to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. The National Planning Policy Framework (Framework) and the Planning Practice Guidance (PPG) reiterate this approach. In my determination of this appeal, the Council's policies have not therefore, by themselves, been decisive.

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

Main Issue

5. The proposal, by virtue of its location and design, would not affect public safety. This is not disputed. The main issue is therefore the effect the proposal would have on the visual amenity of the area.

Reasons for Recommendation

6. The Regulations define factors considered relevant to amenity, which include general characteristics of the locality, including the presence of any features of historic, architectural, cultural or similar interest. The PPG, noting that this is not an exhaustive definition, clarifies that amenity is understood to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement ... where residents or passers-by will be aware of the advertisement². Whilst the proposed advertisement would not have an effect on aural amenity, it is designed to be clearly noticeable in the street scene.
7. The appeal site is located on the west side of Pittville Street close to the High Street, within the Cheltenham Central Conservation Area (CCCA). The street contains a mix of small commercial premises and retail outlets, set in terraces which have a uniform modern character near the appeal site and a mix of architectural styles to the east.
8. The proposal is for a LED illuminated display equivalent in size to the industry standard "6 Sheet" panel. The advertisement would automatically change the displayed image in a repeated sequence. The application form indicates that the proposed dimensions would be 1.87m in height, 1.05m in width and 0.57m in depth.
9. There are a number of bus shelters and telephone kiosks at the edge of the eastern pavement upon which are a number of large advertisements, which did not appear to be illuminated. The side of the road where the appeal site is located has no such large advertisements. It is generally uncluttered with a number of small trees along the length of the pavement, providing a pleasant ambience along the pavement. Signage and advertisements are limited to shop facias and the odd A Board on this side of the road.
10. The proposed advertisement would be sited on the side of the road where no large advertisements exist. As a result of its size, illuminated nature and location the proposal would introduce an alien and intrusive form of advertising on this side of Pittville Street, which would be particularly noticeable after dark. The proposal would detract from the restrained level of advertising on this side of the road and the largely uncluttered pavement environment that exists.
11. The appeal site is within the Old Town Character Area of the CCCA and its surrounding area is characterised by a sense of history. Mindful of the statutory duty³ applicable to conservation areas and in light of the foregoing, I find that the proposed advertisement would erode the attractive aspects of its immediate setting. The proposal would not preserve or enhance the character or appearance of the CCCA as a result.

² Paragraph 079 Ref ID:18b-079-20140306

³ s72(1) Planning (Listed Buildings & Conservation Areas) Act 1990 requires when determining proposals in conservation areas that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area

12. In light of the foregoing I conclude that the proposal would harm the visual amenity of the area. Although not decisive, this would be in conflict with the aims of Policy BE 13 of the Cheltenham Borough Local Plan Second Review which requires advertisements in conservation areas to be appropriate in type, size, colour, illumination and location to the character of the site and surrounding area. The proposal would result in a poorly sited and designed advertisement which would affect the quality and character of the place within which it is located in conflict with the guidance within paragraph 132 of the Framework. The presence of the advertisements nearby does not justify harmful advertisement material as proposed.

Other Matters

13. No 17 is the only listed building within this part of Pittville Street and is roughly opposite the appeal site. The statutory duty⁴ applicable to listed buildings is confined to the consideration of whether to grant planning permission, therefore for the purposes of this decision the effect of the proposal on listed buildings and their settings is material in so far as any effect on the visual amenity of the area. The proposal by virtue of its relative proximity to the listed building would not have a harmful effect on its appearance and would not visually harm its immediate setting or its significance as a heritage asset.
14. The importance of communication infrastructure provision and improvements to services for the public in this respect as well as the necessity of advertising revenue to support such communication hubs are matters outside the scope of this decision, as are any potential benefits derived be it enhanced retail experience for shoppers or the benefits to commercial enterprise. Accordingly, these matters do not outweigh the identified harm.
15. Furthermore, the proposed scheme of conditions would not address the harm to amenity identified above.

Conclusion and Recommendation

16. For the reasons outlined above I recommend that the appeal should be dismissed.

A J Sutton

APPEAL PLANNING OFFICER

Inspector's Decision

17. I have considered all the submitted evidence and the Appeal Planning Officer's report and on this basis the appeal is dismissed.

RC Kirby

INSPECTOR

⁴ s66(1) Planning (Listed Buildings & Conservation Areas) Act 1990