



Appeal Decision

Site visit made on 17 March 2020

by Philip Major BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Housing Communities and Local Government

Decision date: 20 March 2020

Appeal Ref: APP/V2004/H/19/3241179 240 - 252 Anlaby Road, Hull HU3 2RS

- 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: 19/00902/ADV is dated 25 July 2019. The conditions in dispute are Nos 6 and 7 which state that:
 - 06) Advertisements/images displayed on the hereby approved hoarding sign with a digital screen shall be changed no more frequently than once every 30 seconds (in the interests of amenity, public safety, and highway safety, and to comply with policies 14, 20 and 26 of the Hull Local Plan).*
 - 07) The maximum night-time (hours of darkness) illuminance level of the hereby approved hoarding sign with a digital screen shall be 250cd/m² (in the interests of amenity, public safety, and highway safety, and to comply with policies 14, 20 and 26 of the Hull Local Plan).*
-

Preliminary Matter

1. The Appellant has questioned the materiality of the policies named in the disputed conditions (as set out above). It is right that they do not address, in terms, provision of digital advertising hoardings. However policies 14 and 26, when taken together, do address generic matters of design, which goes to amenity, and public and highway safety. Policy 20 specifically deals with matters of amenity and safety in relation to advertisements. Although none of the policies specifically mention digital advertisements this does not render them immaterial. In this I agree with the Inspector who determined the appeal¹ noted in representations.

Decision

2. The appeal is allowed and the express consent Ref: 19/00902/ADV for a hoarding sign with digital screen (to replace existing 48 sheet advertisement hoarding sign) at 240 - 252 Anlaby Road, Hull HU3 2RS granted on 23 September 2019 by Kingston-upon-Hull City Council, is varied by deleting conditions 6 and 7 and substituting for them the following conditions:
 - 06) Advertisements/images displayed on the hereby approved hoarding sign with a digital screen shall be changed no more frequently than once every 10 seconds.*

¹ APP/V2004/H/19/3239819 – 35-37 Pryme Street, Hull

07) *The maximum night-time (hours of darkness) illuminance level of the hereby approved hoarding sign with a digital screen shall be 300cd/m2.*

Main Issue

3. The main issue in the appeal is whether the disputed conditions are reasonable and necessary in the interests of amenity and public safety.

Reasons

4. The existing non-digital display is located on the side of a bus depot. The locality is one of mixed character which, apart from the depot, includes retail and residential premises, and extensive NHS facilities. Anlaby Road is a busy street with bus lanes on each side. There is a good deal of advertising, including hoardings of a similar size, in this wider environment.
5. As an urban location with much activity it would not be out of place to see digitally illuminated advertising. The Council does not allege that amenity, either in relation to the character of the area, or to individuals, would be unacceptably harmed by this proposal (subject to the disputed conditions). I take a similar view, though in my judgement the more frequent display changes sought, and the increase in luminescence proposed, would make no material difference to the impact on amenity. The locality is capable of absorbing the proposed sign without detriment.
6. I have given careful consideration to the assessment of the highway authority in this case. The advertisement is primarily seen when travelling west as it is fixed to the side of the depot and faces onto Arnold Street. It is partially concealed by buildings located on Arnold Street, and by vegetation. This means that drivers on Anlaby Road would not be aware of the advertisement until they were in close proximity to it, a situation which is increased by the presence of the bus lane, which forces drivers towards the centre of the road. As a result a driver's attention would remain on the approaching signal controlled pedestrian crossing, and the junctions with Arnold and Coltman Streets. The advertisement would not intrude on a driver's attention until those potential hazards had been noted and driving adjusted to cope with the prevailing conditions.
7. It seems to me that the rate of change of the advertisement would have little bearing on any driver since it would be unlikely that more than a single change would occur during any passage unless the driver had to stop at the pedestrian crossing. If stopped the driver's actions would be likely to be less susceptible to any distraction caused by a change in the advertisement. This is not, therefore, a case where sufficient reasons have been advanced to justify departing from the 'industry standard' 10 second change of advertisement.
8. In addition I do not agree that the difference in luminescence proposed would add to distraction. A digital display is likely to attract attention in any event, but the luminescence level proposed, added to the partial screening of the advertisement, would be unlikely in itself to cause more distraction than that already agreed as acceptable. This is particularly so as the site is within a busy urban area.
9. Taking all these matters in the round I am satisfied that the display as proposed by the Appellant would not be unduly harmful to amenity or public safety in this location, and therefore the disputed conditions are neither

reasonable nor necessary. There is no conflict with the relevant development plan policies as set out above.

Other Matter

10. I have given due consideration to the appeal decision noted earlier. Having seen that site it seems to me that there are significant differences in detailed display location and highway configuration between the 2 cases. I disagree with the Council that the circumstances of that case are similar to those in the case before me.

Overall 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.

Philip Major

INSPECTOR