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# Appeal Decision

Site visit made on 9 June 2020

**by Martin Small, BA (Hons), BPI, DipCM, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16<sup>th</sup> June 2020**

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**Appeal Ref: APP/Q1445/Z/19/3243346**

**185 Elm Grove, Brighton, BN2 3EL**

- 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 Clear Channel UK against the decision of Brighton & Hove City Council.
  - The application Ref: BH2019/02541 dated 9 August 2019, was refused by notice dated 28 October 2019.
  - The advertisement proposed is described as 'upgrade of existing 48 sheet advert to support digital poster'.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is the effect of the proposed advertisement on amenity.

## Reasons

3. Elm Grove is a busy road but outside the main city centre. It is primarily residential with some small commercial uses, including convenience stores, cafes and public houses. I observed during my site visit that existing signage along the road is principally limited to fascia signs on commercial premises. The area therefore has a predominantly residential character and scale of development. Although not a conservation area, Elm Grove has a well-established traditional character and appearance.
4. The site of the proposed advertisement is on the flank wall of a convenience store and thus faces directly on to Bernard Road, an attractive residential street. However, the site is visible when approaching along Elm Grove from the west. The site currently hosts a poster and paste billboard measuring 6 m x 3 m (48 sheet). From the evidence before me, this has been in place continually in excess of 10 years and benefits from deemed consent. Although the Council could serve a discontinuance notice, I have no evidence that it has done so or intends to do so. The existing billboard is therefore an established feature of the area but is not illuminated.
5. The proposed advertisement would be of lightweight digital LED panels within a black powder coated metallic frame, the same size as the existing billboard, with a controllable level of illumination. Although the level of illumination was initially proposed to be 300cd/sqm at night time in accordance with the guidelines as set by the Institute of Lighting Professionals (ILP), the appellant

offered to reduce this to 100cd/sqm during the course of the application. The appellant's lighting report concludes that if dimmed to 1% the average luminance value of the proposed advertisement would be equivalent to that of the existing billboard. The illumination of the advertisement would therefore not necessarily significantly increase light levels in the area and could be limited by a condition were planning permission to be granted.

6. Only static images are intended to be displayed, with no moving images or flashing lights and although the display could be changed every 10 seconds, this would be done instantaneously to avoid distracting drivers. The display is also controllable by a condition were planning permission to be granted. The proposed advertisement would not increase the number of advertisements in the area nor would it be any larger in area than the existing billboard or significantly more visible during the day time.
7. However, the modern appearance of the proposed advertisement would be at odds with the traditional character of the area. Notwithstanding the quality and durability of the proposed materials, those materials and the finish and appearance of the proposal would be incongruous in the context of the older properties of the area. Conditions to control the luminance and nature of the display were planning permission to be granted would not satisfactorily address the discordant appearance of the proposed advertisement and its consequent effect on the visual amenity of the area.
8. The proposed advertisement would avoid any harm to visual amenity arising from the poor maintenance of the existing poster and paste advertisements, but I see no reason why there would be any lack of maintenance. If there was, the Council could, if necessary, resort to a discontinuance notice. I therefore give little weight to this argument in support of the proposal.
9. I therefore conclude that the proposed advertisement would be harmful to the amenity of the area in terms of its appearance and the effect on the character of the locality. I have taken into account Policy QD12 of the Brighton & Hove Local Plan (2005) which seeks, in respect of proposals for advertisements and signs, to protect visual amenity and so is material in this case. Given that I have concluded that the proposal would harm amenity, the proposal conflicts with this policy.

### **Other Matters**

10. I note the correspondence between the appellant and the Council prior to the determination of the application and the initial indication of a likely recommendation for approval. However, the decision of the Council was to refuse to grant express consent.
11. In accordance with Regulation 3(1) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and paragraph 132 of the Framework, I am required to determine this appeal in the interests of amenity and public safety. There is no indication in the Regulations, the Framework or Planning Practice Guidance that any other factors can be taken into account either for, or against, a proposal (other than signposting in rural areas).
12. I am therefore unable to take into account in my decision the appellant's contention that the proposed advertisement would have environmental, social and economic benefits. Whilst I acknowledge the support from an interested

party, this too is based on matters that cannot be taken into account. For the same reason, notwithstanding the strength of feeling, I am also unable to take into account the majority of concerns of interested parties regarding other matters, including the effect on health, wildlife, climate change and anti-social behaviour.

13. The Committee Report refers to a previous application for an internally illuminated sign in 1996 which was refused, and a subsequent appeal dismissed. I do not have a copy of the appeal decision nor full details of the proposal. I am therefore unable to ascertain whether the proposal before me is comparable in terms of appearance and the level of illumination. I have therefore given this previous decision little weight in my determination of this appeal.
14. The appellant draws my attention to another advertisement on the flank elevation of the property on the corner of Elm Grove and Totland Road, just to the north of the appeal site. However, this is a poster and paste advertisement and so differs from the proposal before me. The Council has not provided evidence of other advertisements in similar residential areas for which, were permission to be granted for the proposed development, a precedent would be set. In any event, it is an established principle that each proposal should be assessed on its own merits. I thus give little weight to the Council's fear of precedent.
15. With control over the luminance level, a static display and instantaneous changes of display, I consider that the proposed advertisement would not represent a hazard to highway safety, nor would it be materially harmful to the living conditions of the occupiers of neighbouring properties. I acknowledge that, although raised by interested parties, no concerns were raised by the Council in respect of these matters. However, as the existing advertisement is acceptable in these respects, these attributes of the proposed advertisement represent an absence of planning harm rather than benefits of the proposal. I therefore accord these matters neutral weight in my decision.

## **Conclusion**

16. For the reasons given above, and having regard to the other matters raised, the appeal is dismissed.

*Martin Small*

INSPECTOR