
Appeal Decision

Site visit made on 25 August 2020

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2020

Appeal Ref: APP/Z0116/H/20/3251783
164-188 Bath Road, Bristol BS4 3BH

- 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 and against conditions imposed.
 - The appeal is made by JCDecauxUK against the decision of Bristol City Council.
 - The application Ref 19/04821/A, dated 3 October 2019, was refused, in part, by notice dated 31 March 2020.
 - The advertisements proposed are described as: 'removal of the three existing advertisements (2x 12mx3m displays, 1x 6mx3m display), to be replaced with two 6mx3m approximately measured, internally illuminated digital advertisement on a specially designed support leg'.
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Decision

1. The appeal is allowed, and express consent is granted for the removal of the three existing advertisements (2x 12mx3m displays, 1x 6mx3m display), to be replaced with two 6mx3m approximately measured, internally illuminated digital advertisement on a specially designed support leg. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations, and the additional non-standard conditions in the attached schedule.

Procedural Matters and Main Issues

2. In allowing this appeal I have referred to the description of the proposed advertisements in the application form as this accurately describes the adverts that have been applied for.
3. In determining the application, the Council issued a split decision, refusing the west facing advertisement on the grounds of public safety, and approving the east facing advertisement subject to conditions. The Council's refusal notice clearly separates the two aspects of the decision while the officer's report sets out that while the west facing sign would be unacceptable, the east facing sign would be acceptable on public safety and amenity grounds subject to the conditions referred to.
4. I have therefore assessed this appeal on the basis of the refused west facing advertisement and whether the conditions referred to by the appellant in respect of the east facing advertisement would meet the tests in Paragraph 55 of the National Planning Policy Framework (the Framework).

5. Therefore the main issues of the appeal are: (i) the effect of the proposed west facing advertisement on public safety; and (ii) the effect that removing conditions 11, 12, 13, 14 and 3 (Artificial Lighting) relating to the proposed east facing advertisement would have on public safety and visual amenity.

Reasons

Background

6. The appeal site has a planning history that includes a number of advertisement consents. The most recent being application ref 17/06513/A (the 2018 consent) for two 6mx3m internally illuminated digital advertisements. Prior to this consent a scheme was allowed at appeal, ref APP/Z0116/Z/17/3175621, for two larger internally illuminated digital signs measuring approximately 3m in height and 13m in length. The appellant has confirmed that these consents have not been implemented, and this was evident during my site visit. Nevertheless, the submitted information suggests that these consents remain extant and capable of implementation.
7. The proposal before me is more or less in the same position as the 2018 consent, and the number, dimension, orientation to the road and type of advertisements have not change. However, the means of supporting the signs would change from a twin leg to a single leg support.

West facing advertisement

8. The appeal site is located alongside the busy Bath Road and comprises a linear plot of land formerly used as a filling station and a car sales lot. There are currently two large non illuminated advertisements angled towards the highway in a westerly direction and affixed to the retaining wall that defines the site's rear boundary. It is proposed to replace those signs with a single 48 sheet internally illuminated digital display fixed to a free-standing monopole. It would display static advertisements on rotation, with the sequence of advertisements changing no more than once every 10 seconds.
9. To the west of the appeal site is the traffic-controlled Bath Road/Totterdown Bridge junction. A bus stop is located between the appeal site and the junction. The appellant states that the distance between the proposed west facing advertisement at the appeal site and the signal heads at the junction with Totterdown Bridge is over 150m, and based on my observations I made on site I find no reason to disagree with this. During the period of time a driver would take to travel this distance the advertisement would likely only change images very few times, if at all. When travelling towards the junction in an easterly direction, the advertisement would be visible from long distances due to the clear forward visibility. I am satisfied that it would give drivers sufficient time to acknowledge the presence of the advertisement, while it is sufficiently set back from the traffic signals, to ensure it would not be a distracting feature to motorists or result in any highway safety concerns.
10. The Council have raised concerns in respect of the west facing advertisement being a distracting feature to eastbound traffic at the same time as buses merge onto the Bath Road. However, there would be an expectation that buses pulling away from the bus stop and merging onto the eastbound carriageway would be using their indicator lights to inform advancing rear vehicles of the forthcoming turning manoeuvre. The flashing indicator of a bus would contrast

with the static illuminated advertisement display and would likely be a more prominent feature in the field of vision of motorists travelling east along the Bath Road, such that their attention would be directed towards the bus rather than the proposed west facing advertisement. As such, I do not consider that the advertisement would cause any harm to highway safety in this specific circumstance.

11. I note that there is concern that the attention of drivers would be averted from the highway or from traffic signals at the Bath Road/Totterdown Bridge junction by advertisements that can cause a distraction to drivers. However, in this instance, I do not consider that the existing highway safety concerns are particularly severe or that the proposed advertisement would exacerbate them, especially as there is no indication that the existing advertisements have caused any undue risk to highway safety.
12. Additionally, the proposed west facing advertisement would have a more discreet visual appearance than the consented signs that could be implemented at the site, in that the appellant has agreed to it having a reduced luminance level and for it to be switched off during the hours of 23:00 and 06:00.
13. I find therefore that the advertisement would not significantly harm highway safety. In their reason for refusal, the Council have cited Policy BCS10 of the Bristol Development Framework Core Strategy (adopted June 2011) and Policy DM23 of the Site Allocations and Development Management Policies Local Plan (adopted July 2014), as well as the Planning Practice Guidance and the Framework. I have taken them in to account as a material consideration. However, the power under the 2007 Regulations to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. Accordingly, whilst I have taken account of the Council's policies and the local and national guidance, they have not, by themselves, been decisive.

East facing advertisement

Condition 11 – lighting assessment

14. The Council's officers report did not refer to any visual amenity concerns in respect of the east facing advertisement, providing the luminance limitations are met. Given that these limitations would be in place, it is therefore not clear why a further condition requesting the undertaking and submission of a lighting assessment with mitigation measures is required, nor is there any justification provided for this. The east facing advertisement would already be subject to a level of luminance well below the Institute of Lighting Professionals (ILP) recommended level, while the sign would not be illuminated between 23:00 and 06:00.
15. It is noted that approval exists for residential dwellings opposite the appeal site, however, the conditions setting the luminance level and hours of operation would be sufficient in this suburban context to ensure the visual amenity of nearby occupiers is not unacceptably harmed. Moreover, the extant advertisement consents at the site for larger and brighter signs with no restriction on the time of their illumination could be implemented, and in this regard the appeal proposal would be less prominent in terms of its appearance.

16. Therefore, a condition requiring a further lighting assessment and mitigation measures would not be reasonable or necessary.

Condition 12 – highway safety monitoring

17. The Council has imposed a condition requiring the appellant, prior to displaying any advertisement, to prepare a monitoring scheme on the effects of the advertisement on highway safety. There is limited evidence why this condition is required, given that the Council's Transport advisers raised no objection on highway safety grounds in respect of the east facing sign. Nor, after concluding no highway safety concerns, is there any sound reasoning in the Council's case why this additional information would be required. Furthermore, the condition lacks precision in that it is not specific regarding the nature and form the monitoring should take. Therefore Condition 12 would not be reasonable or necessary.

Condition 13 – access, maintenance and inspection plan

18. The standard conditions relating to advertisement consents include the requirement that signage is maintained in such a way that it would not impair visual amenity or public safety. I also note that the site can be accessed by vehicles from Bath Road through an existing gated entrance, and I do not consider there would be a justified need for further information to demonstrate how the sign would be accessed and maintained. Condition 13 is therefore not necessary.

Condition 14 – luminance monitoring

19. In raising no objection to the east facing advertisement, the Council's Transport adviser, did not require any specific conditions to monitor the effects on lighting on the highway and road safety, nor is it clear from the officer's report why this additional monitoring over a 6 month period would be required. From the evidence before me and including my observations on site, I am satisfied that the east facing advertisement would not harm highway safety, while the luminance level would be below that considered acceptable by the ILP. Furthermore, the sign would not be illuminated for much of the time during the hours of darkness. Accordingly, I do not consider that a monitoring condition in the terms proposed would be necessary.

Condition 3 - Artificial Lighting

20. This condition would not be necessary as it would duplicate a condition that has been suggested in respect of luminance levels. That condition already imposes a specific limit that would be reasonable and enforceable.

Conclusion on conditions

21. Therefore, in concluding on this main issue, it is considered that removing conditions 11, 12, 13, 14 and 3 (Artificial Lighting) relating to the proposed east facing advertisement would not have a harmful effect on public safety and visual amenity.

Other Matters

22. The appeal site is located over 100m from the Grade II listed Thunderbolt public house. The proposed signage is a considerable distance from this heritage asset and set in from the highway, to the extent that it would have an

oblique, not overtly visible relationship to the public house. Therefore, given the separation distance and their position it is not considered that the proposed signage would result in any material harm to the setting of the listed building.

23. I have noted the third-party concerns submitted in respect of the proposal's impact on site ecology and the energy used in powering the signage. However, I have determined the appeal on the basis of the impact of the proposal on amenity and public safety.
24. There are also visual amenity concerns in respect of the proposed signs, however, this was not a concern of the Council and I agree with their assessment in this respect. Moreover, the visual impact on the consented residential dwellings opposite the appeal site is noted, however, consents exist at the site for illuminated advertisements that would be more prominent than the appeal proposal and these could be implemented in accordance with the terms of those consents.

Conditions

25. The Council have provided a list of suggested standard and non-standard conditions in respect of the west facing advertisement, whilst I have also had regard to the conditions imposed on the Council's decision notice¹ in respect of the east facing advertisement. I have amended these where necessary for clarity and to ensure compliance with the tests set out in paragraph 55 of the Framework.
26. In the interests of highway safety and visual amenity, I consider that the conditions suggested regarding the intensity of the illumination; the minimum display time; the time of day they can be illuminated; special effects; the interval between images; and, a mechanism to freeze the image in the event of a malfunction are necessary.
27. I have not imposed the conditions which the appellant has sought to remove, in respect of the west facing advertisement as I considered that these are not necessary in safeguarding amenity and public safety.

Conclusion

28. The appeal is therefore allowed, and express consent should be granted, subject to standard conditions and the non-standard conditions outlined in the attached schedule.

R. E. Jones

INSPECTOR

¹ Application Ref 19/04821/A

Schedule of Conditions

1. The advertisements must have static images only for the lifetime of the development. No moving or apparently moving images, strobe or flashing lighting effects are permitted.
2. The advertisements must not contain any images which may be interpreted as road signs or emit sound, smoke or odours.
3. The advertisements must not change its image more than once in any ten second period for the lifetime of the development. No interactive messages or messaging sequences are to be displayed.
4. The proposed change in image method for the advertisements must use a fade/dissolve process and shall not give the appearance of movement for the lifetime of the development. Any sequential change between advertisements will take place over a period no greater than 0.1 seconds.
5. The advertisements shall not be illuminated between the hours of 23:00 and 06:00 and the luminance level of the advertisements shall not exceed 175cd/m² at any time for the lifetime of the development. The adverts shall be equipped with a dimmer control and photocell which shall constantly monitor ambient light conditions and adjust brightness accordingly to the satisfaction of the Local Planning Authority. The advertisements will go to a blank (dark) screen should it malfunction.

*****End of Schedule*****