



Appeal Decision

Site visit made on 11 September 2020
by Conor Rafferty LLB (Hons), AIEMA, Solicitor

Decision by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2020

Appeal Ref: APP/K0235/Z/20/3252585

82 Midland Road, Bedford MK40 1QH

- 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 Bedford Borough Council.
 - The application Ref 20/00201/ADV dated 24 January 2020 was refused by notice dated 25 March 2020.
 - 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 allowed and express consent is granted for the upgrade of existing 48 sheet advert to support digital poster at 82 Midland Road, Bedford MK40 1QH. 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 following additional conditions:
 1. The intensity of the illuminance of the advertisement shall be no greater than 100 candela/square metre during hours of darkness and no greater than 300 candela/square metre during the hours of brightness.
 2. The display shall not change more than once every 10 seconds and the use of message sequencing for the same product is prohibited.
 3. There shall be no special effects (including moving images, animation, flashing, scrolling, three dimensional, intermittent or video elements) of any kind.
 4. The interval between successive displays shall be instantaneous (0.1 seconds or less), the complete screen shall change, there shall be no visual effects (including fading, swiping or other animated transition methods) between successive displays.
 5. The display shall contain at all times a feature that will turn off the screen in the event that the display experiences a malfunction or error.

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.

Procedural Matters

3. The Regulations¹, National Planning Policy Framework (the Framework) and National Planning Practice Guidance (PPG) make it clear that advertisements should be subject to control only in the interests of public safety and amenity. Regulation 3(1) of the Regulations states: A local planning authority shall exercise its powers under these Regulations in the interests of amenity and public safety, taking into account - (a) the provisions of the development plan, so far as they are material; and (b) any other relevant factors. Policy 34(i) of the Bedford Borough Local Plan 2030, adopted January 2020, seeks to protect amenity and so is material in this case but is not determinative in reaching a decision on the appeal.

Main Issue

4. The main issue in this case is the effect of the proposed advertisement on the visual amenity of the area.

Reasons for the Recommendation

5. The appeal site comprises the gable wall of the building at 82 Midland Road, at the junction with Battison Street. A 48 sheet advertisement display is currently present on the gable wall. The surrounding area is characterised by a range of uses. The area to the south east of the site along Battison Street is primarily residential in nature, with dwellings lining both sides of the street with the exception of a hairdressers immediately adjoining the gable wall. However, along Midland Road the immediate area is predominantly commercial in character due to the presence of numerous business premises at street level. Consequently, the gable wall at the site and neighbouring hairdressers mark a transition between the residential area of Battison Street and the more commercial character of Midland Road. In this sense, while the advert sits in a prominent corner plot location it does not have an adverse effect on the visual amenity of the area, but rather blends well with the immediate commercial surrounds.
6. The proposed advertisement would comprise a digital colour display with changing images on the gable wall to replace the 48 sheet poster advertisement currently present. It would not be visible when travelling south-west along Midland Road but views would be experienced when travelling north-east where the sign would be experienced primarily in the context of the commercial surrounds. While the residential nature of Battison Street would become more apparent on the approach to the site, the gable wall and its current advertisement read as the end to the commercial section as it merges into the more residential area. This is also the case when travelling to and from Battison Street. The proposal would relate more to the commercial surroundings than the housing beyond. In this sense it would not detract from the visual amenity of the wider area.
7. In terms of scale, the proposed advertisement is of standard dimensions matching those of the display currently present at the site. Therefore, having regard to the size and characteristics of the existing advertisement display and its context, the proposed advertisement would not appear more prominent or dominant than that existing by nature of its dimensions or positioning.

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

8. While the proposed advertisement would be illuminated and would display different images on rotation, the appellant has stated that it would not comprise any moving images or flashing lights. The rate of image change and brightness of the advertisement, which would be controlled remotely, would also be in line with industry standard. Furthermore, it is acknowledged by both parties that there are several units along Midland Road in proximity to the appeal site with illuminated shop fronts. The proposal would therefore visually integrate with these illuminated commercial units, being a fitting addition to the immediate surrounds. As a result, while the proposal would be more noticeable than the current poster at the site due to this digital illumination and changing images it would not cause such a drastic change to the appeal site so as to have an adverse effect on the visual amenity of the area.
9. For the reasons given above I therefore find that the proposal would not have a harmful effect on the visual amenity of the area.

Conditions

10. In addition to the five standard conditions set out in the Regulations the appellant and Council have suggested a number of agreed conditions which I have considered.
11. I have considered it necessary in the interests of amenity to impose a condition that the advertisement should operate at an illumination level no greater than 300 cd/square metre during the day at 100cd/square metre in the interests of amenity. While these are below the levels in the guidance of the Institution of Lighting Professionals, Professional Lighting Guide 2015, they have been agreed by the parties to this appeal. Whilst the advert is adjacent to a commercial area, it is also at a point of transition to an area with a residential character and I am satisfied that the suggested limits are reasonable and necessary to ensure that the impact on visual amenity is adequately controlled. I also consider it necessary in the interests of amenity to impose conditions that the display shall not change at a frequency of more than once every 10 seconds and that the interval between successive displays should be instantaneous. No moving or apparently moving images should be displayed, and the screen should automatically switch off in the case of a malfunction in the interests of amenity and safety.
12. I am not persuaded that the condition proposed relating to the resemblance of advertisements to highway signage is necessary. In this regard, no concern in relation to highway safety was raised by the Council, nor was the condition requested by the Council's highways' officers. Similarly, I am not persuaded that the condition proposed suggesting that the advertisement be switched off during the hours of 00:00 – 05:00 in the interests of amenity is necessary as limited justification has been provided by the parties.

Conclusion and recommendation

13. Having had regard to all matters raised, I find that the proposal would not have a significant adverse effect on the visual amenity of the area. I therefore recommend that the appeal should be allowed.

C Rafferty

APPEAL PLANNING OFFICER

Inspector's Decision

14. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis I agree that the appeal should be allowed and that express consent should be granted for the upgrade of existing 48 sheet advert to support digital poster, subject to the conditions at paragraph 1 of this recommendation.

C Preston

INSPECTOR