
Appeal Decision

Site visit made on 5 February 2021

by R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL

an Inspector appointed by the Secretary of State

Decision date: 01 March 2021

Appeal Reference: APP/A2280/H/20/3260352

Land Rear Of 3A-13 Mount Pleasant, at Chatham Hill, Luton, Chatham ME5 7AY

- 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 Mr C Welbourne against the decision of Medway Council.
 - The application (reference MC/20/1614, dated 6 July 2020) was approved on 8 September 2020 and consent to display advertisements was granted, subject to conditions.
 - The advertisement permitted is described in the application as *"replacement and upgrade of existing 1 x 96 sheet and 2 x 48 sheet externally illuminated hoardings with 1 x 48 sheet internally illuminated digital advertising display unit"*.
 - The Conditions in dispute are Conditions numbers 1 and 9, which state:
 1. *"The applicant shall notify the Local Planning Authority in writing at least 10 days before the first the use of the advertisements herein approved of the date of the first use. This advertisement consent herein approved shall thereafter expire 5 years from the date of first use as has been specified in writing. At the expiration of 5 year from the date of the first use, the sign, associated frame and construction material shall be removed from the land."*
 9. *"The display shall not change more than once every 15 seconds and the interval between successive displays shall be instantaneous (0.1 seconds or less)."*
 - The Reasons that were given for the Conditions are:
 1. *"To allow the Local Planning Authority an opportunity to assess the effect of the display on highway and pedestrian safety in accordance with Policy BNE10 of the Medway Local Plan 2003."*
 9. *"To ensure that the display does not prejudice conditions of visual amenity or highway safety in accordance with Policy BNE10 of the Medway Local Plan 2003."*
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Decision

1. The appeal is allowed and the advertisement consent (reference MC/20/1614, dated 6 July 2020), at Chatham Hill, Luton, Chatham ME5 7AY, granted on 8 September 2020 by Medway Council, is varied by deleting conditions 1 and 9 and substituting for them the following conditions:
 1. *"The applicant shall notify the Local Planning Authority in writing at least 10 days before the first the use of the advertisements herein approved of the date of the first use. This advertisement consent herein approved shall thereafter expire 5 years from the date of first use as has been specified in writing."*

2. "The display shall not change more than once every 10 seconds and the interval between successive displays shall be instantaneous (0.1 seconds or less)".

Main issue

2. In relation to this advertisement consent appeal, the legislation makes it clear that the powers conferred by the Regulations may be exercised only in the interests of amenity and public safety; the Development Plan may be a material consideration but cannot be determinative. Thus, the main issues to be determined in the appeal are the effect of the proposed advertisement on amenity and public safety.

Reasons

3. Chatham Hill is a busy main road (the A2), near the centre of Chatham, sloping down towards a complex junction and sets of traffic lights, where the main road passes beneath a railway bridge. The traffic flow is interrupted at the junction and queues can form, stretching up the hill.
4. An embankment on the northern frontage of the main road rises up towards the railway and a terrace of houses at Mount Pleasant, leaving an area of overgrown land on which an advertisement panel stands near to the highway and clearly visible to approaching traffic, as well as to vehicles waiting at traffic lights.
5. Advertisement consent has been granted, subject to conditions, for the erection of a modern "internally illuminated digital advertising display unit". This appeal has been submitted against two of the conditions that were imposed on the consent: conditions 1 and 9.
6. Condition 1 includes a provision that the advertisement consent shall expire after 5 years and that the sign, associated frame and construction material shall be removed from the land, to enable the local planning authority to reassess its impact on highway and pedestrian safety. Condition 9 provides that the illuminated display shall not change more frequently than once every 15 seconds, in the interests of protecting visual amenity and highway safety.
7. One of the aims of the 'National Planning Policy Framework' (as amended in February 2019) is "achieving well designed places" in the broadest sense (notably at Section 12). It points out the undesirable impact of advertisements that are "poorly designed and sited" (at paragraph 132), while recognising that the control regime ought not to be unduly onerous.
8. The aim of protecting visual amenity and highway safety is also expressed in Policy BNE10 of the 'Medway Local Plan', which was adopted in 2003 and which deals with advertisements of various types.
9. The new advertisement has been approved for a period of five years, following which a new proposal could be submitted, in the light of available information at the time. In the circumstances, it would be unnecessary, in my view, to retain the requirement for the physical removal of the advertising structure at the end of the usual consent period, as part of Condition 1 requires. Such a condition should only be imposed if there is a clear justification to do so and, in

this case, the requirement would impose an unnecessary and excessive burden.

10. Condition 9 imposes a requirement for the display to change no more than once every 15 seconds but it is argued that this time interval could be reduced to once every 10 seconds. Having viewed the existing installation and having considered all the submissions, I have also formed the opinion that the proposed shorter time interval would not undermine highway safety or visual amenity and that, therefore, it would also be acceptable for a shorter time interval to be set out in Condition 9.
11. In short, I am persuaded that the scheme before me can properly be permitted subject to the imposition of amended conditions that would continue to protect highway safety and visual amenity and, although I have considered all the matters that have been raised in the representations, I have found nothing to cause me to alter my decision. The advertisement consent remains subject to the other conditions that were imposed by the local planning authority and to the Standard Conditions that are set out in the relevant legislation.

Roger C Shrimplin

INSPECTOR