

Appeal Decision

Site Visit made on 3 March 2021

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 March 2021

Appeal Ref: APP/H0724/H/20/3263267

2 Marton Street, Hartlepool TS24 8PW

- 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 Hartlepool Borough Council.
- The application Ref H/2020/0204, dated 9 April 2020, was approved on 23 September 2020 and express consent was granted for the display of an advertisement subject to conditions.
- The advertisement permitted is replacement of existing poster with "D-Poster" which will display digital and illuminated LED advertisement displays.
- The condition in dispute is No 6 which state that: *The display shall not change more frequently than once every 20 seconds.*
- The reason given for the condition is: *In the interests of visual amenity and highway safety.*

Decision

1. The appeal is allowed and the advertisement consent Ref H/2020/0204 for replacement of existing poster with "D-Poster" which will display digital and illuminated LED advertisement displays at 2 Marton Street, Hartlepool TS24 8PW granted on 23 September 2020 by Hartlepool Borough Council, is varied by deleting condition No 6 and substituting it for the following condition:
 - 1) The sequential advertisement on any display panel shall not change more than once every 10 seconds.

Preliminary Matter

2. In its Delegated Report the Council has set out a list of policies from the Hartlepool Local Plan 2018 (the HLP) that it considers to be relevant to the application which led to this appeal. However, powers under the Regulations¹ to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. In my determination of this appeal the Council's policies have not therefore, by themselves, been decisive.

Background and Main Issues

3. Advertisement Consent was granted for the replacement of an existing poster style advertisement with a "D-Poster" which will display digital and illuminated LED advertisement displays as set out above, subject to various conditions including a condition (No 6) which requires that the display shall not change more frequently than once every 20 seconds. The Council considers this condition to be necessary in the interests of visual amenity and highway safety. The appellant,

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

however, objects to the condition and, in doing so, seeks to vary the condition to increase the frequency to not more than once every 10 seconds.

4. The main issues, therefore, are the effect that varying the condition would have on visual amenity and highway safety.

Reasons

5. The appeal relates to the gable end of 2 Marton Street where a 48 sheet externally illuminated posterboard style advertisement currently exists. The surrounding area is characterised by a mix of residential and commercial uses which include a short parade of shops along Raby Road, immediately adjacent to the appeal site.
6. The approved advertisement would be located in the same position and be of the same size as the existing, but it would be a digital internally illuminated display with changing images. Owing to its digital format and internal LED method of illumination, advertisements would appear sharper and more vivid and would thereby be more visually prominent than the existing static display. Given its size and positioning in relation to the scale of surrounding buildings, including its proximity to nearby residential properties, it is necessary in the interests of visual amenity that the frequency with which the digital advertisements change is controlled by condition. This point is not in dispute between the parties.
7. I have not been directed to any particular policy or guidance adopted by the Council in relation to the frequency of the change in display. Although, I note that Policy QP4 of the HLP seeks to avoid advertisements which introduce visually obtrusive features.
8. With regard to visual amenity, an increased frequency of the rate of change between advertisements to once every 10 seconds would not constitute an obtrusive feature. In this particular case, there would be little appreciable difference, and therefore no greater harm to the visual amenity of the area, between a 10 second, as opposed to a 20 second, interval between the changeover of advertisements. Consequently, I am satisfied that a changeover frequency of 10 seconds, as proposed by the appeal, would comply with HLP Policy QP4, in so far as that policy seeks to protect the amenity of the surrounding area.
9. Turning now to highway safety, the Planning Practice Guidance advises that advertisements are intended to attract attention but proposed advertisements at points where drivers need to take more care are more likely to affect public safety. For example, at junctions, roundabouts, pedestrian crossings, on the approach to a low bridge or level crossing or other places where local conditions present traffic hazards.
10. The appeal site is not located on a busy road junction or at a point where motorists or pedestrians are required to take more care or pay extra attention to ensure their safety. I also note that the Council's Traffic and Transport Team did not object to the advertisement and did not seek the imposition of any conditions to maintain highway safety.
11. Nevertheless, digital advertisements changing over at short intervals could result in a distracting feature to motorists which could reduce their vigilance, giving rise to highway safety concerns. Accordingly, in that respect a condition to control the frequency in the change of display is necessary. Again, I note the parties' views do not diverge on this point.

12. However, there is no evidence before me to demonstrate that a 10 second interval between the display of advertisements would not be sufficient in this regard. Therefore, varying the condition as proposed would not have a detrimental effect on highway safety. As such, it would meet the requirements of Policy QP3 of the HLP which, amongst other things, seeks to maintain highway safety.
13. To support its case, the Council has alerted me to the fact that it has imposed the disputed condition on two other approvals of advertisement consent² for similar types of digital advertisements within the borough. However, whilst I appreciate the importance of constancy in decision-making, I have not been provided with the full details of these other cases and therefore cannot be sure that they offer a direct comparison to the appeal scheme. In any case, each proposal must be judged on its own merits.

Conclusion

14. I have found it to be necessary, in the interests of visual amenity and highway safety, for the frequency of changeover between the display of advertisements to be controlled by condition. However, on the basis of the evidence before me, as set out above, it is not necessary to restrict the change in display to a 20 second interval. In this regard, the proposed variation of the condition, as put forward by the appellant, to reduce the changeover frequency of advertisements to a 10 second interval would be reasonable.
15. Accordingly, for the reasons given above, I conclude that the appeal should be allowed, and I vary the original consent by deleting the disputed condition and substituting it as set out in my formal decision.

J M Tweddle

INSPECTOR

² Application Ref. H/2020/0041 & H/2020/0069