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## Appeal Decision

Site visit made on 6 July 2021 by A J Sutton BA (Hons) DipTP MRTPI

**by L McKay MA MRTPI**

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

**Decision date: 26 July 2021**

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**Appeal Ref: APP/Z0116/Z/21/3273452**

**Esso Hartcliffe Way, Hartcliffe Way, Bedminster, BS3 5RP**

- 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 Mr Ben Porte (Clear Channel UK Ltd) against the decision of Bristol City Council.
  - The application Ref 21/00256/A, dated 19 January 2021, was refused by notice dated 16 March 2021.
  - The advertisement proposed is installation of illuminated 48-sheet D Poster (6m by 3m).
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### Decision

1. The appeal is dismissed.

### 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.

### Preliminary Matters

3. The Council has drawn my attention to the development plan policies it considers to be relevant to this appeal. However, powers under the Regulations<sup>1</sup> 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; however, I have taken them into account as a material consideration where relevant.
4. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework (the Framework). Whilst I have had regard to the revised national policy as a material factor, in this instance the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.

### Main Issues

5. The main issues are the effect of the proposal on the amenity of the area and public safety of those using the adjacent highway.

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<sup>1</sup> The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended)

## Reasons for Recommendation

### *Amenity*

6. Paragraph 136 of the Framework states that the quality and character of places can suffer when advertisements are poorly sited and designed. The Regulations state that 'amenity' includes aural and visual amenity and that factors relevant to amenity include the general characteristics of the locality. The Planning Practice Guidance (PPG) advises that in assessing amenity, the local characteristics of the neighbourhood would always be considered<sup>2</sup>.
7. The appeal site is located at the access of a filling station forecourt with a backdrop of a car sales premises. It is situated next to a main road where the immediate area is predominately commercial with premises lining the road and an industrial estate to its rear. However, the site is at the point of transition between the more densely urban and the suburban edge of Bristol. The character of the road changes just south of the appeal site, where the main transport route is softened by a green corridor of mature vegetation with less development along this stretch and an uncluttered sense of space.
8. The filling station's forecourt is covered by a canopy edged with signage and has a totem style digital sign detailing fuel price at the road's edge. Other advertisements in the surrounding area are generally limited to non-illuminated, non-digital fascia style signs, fabric pole signs or small standing boards at the side of the road. While these are quite numerous, they are significantly smaller and lower in height than the advertisement proposed.
9. The proposed large illuminated, digital panel with changing images would introduce a distinctly different form of advertising into the area in terms of scale and style, and its elevated position would make it particularly prominent when approaching it. As such, it would be distinctly different to the existing advertising in the area, despite the commercial/industrial nature of the surroundings. The striking form would be highly visible along the straight stretch of road on the cusp of where the commercial character shifts to a greener environment. As such, the scale and form would appear incongruous and be a dominant feature on the roadside which would harmfully alter the character of the local area.
10. The use of illumination would further draw attention to the proposed advertisement, particularly at night. While all advertisements are intended to attract attention, the large area to be illuminated would make this advertisement particularly prominent in the proposed position, and it would appear distinctly different to the type of illumination already created by the downward facing street lights and at the filling station. Limiting the degree of illumination and turning it off between 11pm and 5am would reduce the harm to visual amenity. However, the scale of the structure would still be clearly visible, and it would still be illuminated during some of the hours of darkness, particularly during winter months. As such the appellant's suggested conditions would not fully mitigate the identified harm resulting from use of illumination.
11. Due to the distance to the nearest dwellings the proposal would not have a significant impact on the amenity of local residents. Nevertheless, due to its

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<sup>2</sup> Paragraph: 079 Reference ID: 18b-079-20140306

size, scale, position and illumination, for the reasons above the proposal would have an appreciable and harmful effect on the visual amenity of the area.

12. Although not determinative in this case the proposal would conflict with policy BCS21 of the Bristol Development Framework Core Strategy (CS) and policy DM29 of the Sites Allocations and Development Management Local Plan (LP) which collectively require high quality urban design and contribute positively to an area's character and identity; and that external signage is appropriate to the character of the wider street scene and longer distance views. It would also be inconsistent with policies of the Framework which seek well-designed places.

### *Public Safety*

13. The Regulations set out factors relevant to the assessment of public safety, which include the safety of persons using any highway and whether the display of the advertisement in question is likely to obscure, or hinder the ready interpretation of, any traffic sign<sup>3</sup>. The PPG sets out that proposed advertisements at points where drivers need to take care are more likely to affect public safety, for example at junctions and pedestrian crossings or other places where local conditions present traffic hazards.<sup>4</sup> While the proposal would fall within a type of advertisement which the PPG sets out may cause a danger to road users, the actual impact on public safety will depend on the particular circumstances of the site.
14. The appeal site is adjacent to the A4174, a heavily trafficked main route for areas to the south of the City and, to the north, for the City Centre. At this point the A4174 is three lanes wide, including a bus lane. The site is also close to the junction providing access to the filling station and next to a footpath and designated strategic cycleway which cross the junction.
15. An Avon Fire and Rescue Services station is located on the opposite side of the road with its access onto the A4174 just south of the appeal site. There are warning lights south of the appeal site used to alert drivers when Fire service vehicles are leaving the station to attend emergency incidents. Between these warning lights and the appeal site the road is marked, and pedestrians and cyclists are restricted by barriers, to prevent highway users blocking the egress of Fire Service vehicles from the station.
16. The part of the road near the appeal site is speed restricted to 30mph and is straight and flat., The evidence before me is that there have been 2 accidents in the vicinity of the junction, although these may have occurred during roadworks. Nevertheless, although reported accidents are relatively low, as outlined above it is a complex and busy location with a number of hazards and considerations. Therefore it requires focused attention by all users, particularly motorists using the south bound carriageway, to avoid incidents and conflicts.
17. The large digital advertisement would be orientated towards vehicles travelling south along the A4174. Due to its size, illumination and elevated position it would appear as an incongruous feature which would draw south bound motorist's attention across the carriageway. As such, it would create a distraction on this challenging part of the road, increasing the potential for conflict with other users of the road, footpath and cycleway.

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<sup>3</sup> Town & Country Planning (Control of Advertisement) (England) Regulations 2007 3(2)b

<sup>4</sup> Planning Practice Guidance Paragraph: 067 Reference

18. In particular, due to its position at the junction it would distract drivers turning off the major road to access the filling station, at a point where it is important that awareness is on the potential that vulnerable highway users will be crossing the junction. This would increase the potential for conflict with pedestrians and cyclists, thereby making this part of the highway less safe for these road users.
19. Moreover, being considerably larger and set higher than the Fire Service warning lights, the illuminated and changing images of the advertisement, which may also be colourful, would compete with the warning lights in drawing the attention of highway users. Due to its size and illumination it may also hinder the ready interpretation of those lights. When the warning lights have been activated vehicles and cyclists are required to slow and stop, and any additional distraction to drivers' attention in this situation could lead to conflict with other road users and increase the risk of collisions.
20. The nature of the proposed display, frequency and method of changing images and the degree of illumination could be controlled by conditions. However, given the relatively slow-moving traffic and the distance from which the advertisement would be seen, even with the image changing only every 10 seconds it is likely that drivers would be in the area long enough for it to change. Even if, as the appellant suggests, they would only be there to see a maximum of two different images, the change would still draw the attention of highway users and be more likely to cause distraction than a single, unchanging image.
21. Consequently, although in a commercial area the local highway conditions are such that, even subject to the appellant's suggested conditions, the nature, size, position and illumination of the proposed advertisement would have a harmful effect on the public safety of those using the adjacent highway.
22. Although not determinative in this case the proposal would be inconsistent with CS Policy BCS10 and LP DM23 which collectively require proposals should be designed and located to ensure the provision of safe streets; and with the Framework which seeks to avoid unacceptable impacts on highway safety.

### **Other Matters**

23. This type of digital advertisement is in common use and as such is not a type of outstanding or innovative design as supported by the Framework, and therefore would not contribute positively to the amenity of the area in this respect. The sustainability of the design falls outside the scope of what I can consider in this case as it has not been demonstrated that it is directly related to amenity or public safety. When determining a proposal for advertisement consent, there is no provision in the Regulations to balance such other matters against any harm in relation to amenity or public safety.

### **Conclusion and Recommendation**

24. For the reasons outlined above, and having regard to all other matters raised, it is recommended that the appeal should be dismissed.

*A J Sutton*

APPEAL PLANNING OFFICER

**Inspector's Decision**

25. I have considered all the submitted evidence and agree with the recommendation. The appeal is therefore dismissed.

*L McKay*

INSPECTOR