

Appeal Decision

Site visit made on 28 July 2021

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 August 2021

Appeal Ref: APP/P1560/Z/21/3268618
186 Old Road, Clacton On Sea CO15 3LR

- 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 Ltd against the decision of Tendring District Council.
 - The application Ref 20/01528/ADV, dated 16 October 2020, was refused by notice dated 18 December 2020.
 - The advertisement proposed is 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 upgrade of existing 48 sheet advert to support digital poster at 186 Old Road, Clacton On Sea CO15 3LR, as applied for. The consent is granted for a period of five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and to the additional conditions included in the Schedule at Annexe A.

Main Issue

2. The main issue is the effect of the proposed advertisement on the amenity of the occupiers of the first floor flat at No 188 Old Road.

Reasons

3. The proposal involves the installation of an illuminated digital poster display of the same width and height as the one recently in place at the appeal location (it had been removed at the time of the inspection).
 4. The appeal property is a two storey building with a commercial ground floor use located within the district and local centre boundary of Clacton On Sea. The surrounding area comprises similar property types with retail and commercial uses at ground floor, many with flats above.
 5. No 186 is positioned further forward than the two neighbouring buildings to the north. Consequently, its side elevation, which is the location of the proposed advertisement, is positioned close to the frontage of the nearest building, No 188. This has a flat at its first floor with two windows, the smallest of which is relatively close to the position of the proposed advertisement.
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6. The appellant has provided credible evidence to demonstrate that the effects of an illuminated display during daylight hours are of limited difference to those of a non-illuminated advertisement. Moreover, the window is perpendicular to the position of the advertisement and direct views from it will remain to the opposite side of the road, with no material difference in visibility or prominence of the advertisement compared to the existing circumstances. For these reasons, the focus on the possible effects of the illuminated display should be during the hours of darkness.
7. The location is an urban centre where there is expected to be some night time activity, which will involve different forms of illumination. Indeed, the direct view from the nearest window in No 188 to the advertisement is towards a street light. Nonetheless, it is possible that the additional light source provided by the proposed advertisement could have some effect on this nearby residential property. I note in this regard that the appellant proposes conditions to switch off the display between midnight and 05:00 hours and to reduce the luminance level during the other hours of darkness to 200cd/m². Taking these matters as a whole, I consider that they will provide sufficient mitigation to any potentially harmful effects that could occur to the amenity of the neighbouring occupiers.
8. Accordingly, for these reasons, I conclude that the proposal would not have a harmful effect on the amenity of the occupiers of the first floor flat at No 188 Old Road. I have taken into account Policies QL9, QL11 and EN18b of the Tendring District Local Plan 2007, which concern the effect of development on local character, residential amenity and advertisements and which, therefore, are material in this case. I have not, however, had regard to Policy SPL3 from the Local Plan 2013-2033 and Beyond Publication Draft as this is at examination and it is not clear that the policy may not be subject to changes.
9. Given that I have concluded that the proposal would not harm amenity, it does not conflict with the relevant Local Plan policies. Consequently, the appeal should succeed.

Conditions

10. As an advertisement is involved the consent should be subject to the five standard conditions included in the 2007 Regulations. I note also that the Highway Authority proposes two additional conditions. The first concerns agreement of practical arrangements for installing the new advertisement, which I accept is necessary as the location of the proposed works abuts the back of the footway, which is public highway. The second condition concerns illumination levels and would require these to not exceed 300cd/m², which in any case is the level proposed as shown on the application form. Moreover, for the hours of darkness the controls referred to above would be more stringent and would ensure that the advertisement would not adversely affect highway safety in this location. As such, this condition is not necessary.
11. The other conditions suggested by the appellant concern the form of display and I agree that these controls on the type and frequency of the advertisements are necessary for the avoidance of doubt in the interests of highway safety.

Conclusion

12. For the reasons given above and having regard to all other matters raised, it is concluded that the appeal should be allowed.

J Bell-Williamson

INSPECTOR

Annexe A

Schedule – conditions

- 1) The proposed works particularly to the external surface area directly abuts to the back of the footway, which is public highway and the construction work related to the advertisement hereby granted consent must be carried out subject to arrangements made with the Highway Authority's Service Management Office¹.
- 2) No individual advertisements displayed on the panel shall contain moving images, animation, video or full motion images or images that resemble road signs or traffic signs.
- 3) The interval between successive displays shall be instantaneous (0.1 seconds or less) with no flashing and a smooth instant change into the next static poster image and the complete screen shall change, there shall be no visual effects including swiping or other animated transition methods between successive displays.
- 4) The advertisement display hereby granted consent shall be switched off and not in use between the hours of 00:00 and 05:00, and the intensity of luminance of the advertisement shall be no greater than 200cd/m² during other hours of darkness.
- 5) The sequential advertisement on any display panel shall not change more than once every ten seconds.

[End of Schedule]

¹ The Highway Authority's Development Management Team can be contacted at: SMO1 – Development Management Team, Ardleigh Depot, Harwich Road, Ardleigh, Colchester CO7 7LT; or by email: development.management@essexhighways.org
