
Appeal Decision

Site visit made on 9 September 2021

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2021

Appeal Ref: APP/M4510/Z/21/3278012

Pavement Adjacent to 375 Benton Road, Newcastle upon Tyne NE7 7UJ

- 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 Miss Adele Grogan (Clear Channel) against the decision of Newcastle-upon-Tyne City Council.
 - The application Ref 2019/0172/01/ADV, dated 29 January 2019, was refused by notice dated 4 May 2021.
 - The advertisement proposed is described as 'upgrade of existing double sided advertising paper panels with double sided advertising digital panels forming an integral part of the shelter. The digital panels would display a sequence of static advertising images that would change no more frequently than every 10 seconds, change via smooth fade'.
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Decision

1. The appeal is allowed and express consent is granted for upgrade of existing double sided advertising paper panels with double sided advertising digital panels forming an integral part of the shelter. The digital panels would display a sequence of static advertising images that would change no more frequently than every 10 seconds, change via smooth fade. 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:
 - The intensity of luminance of the advertisement shall be no greater than 300 candela per square metre during the hours of darkness;
 - The display shall not change more than once every 10 seconds;
 - No part of the advertisement to which this consent relates shall contain any prismatic, scrolling or other moving components, images or special effects or images that resemble road signs or traffic signs.

Procedural Matters

2. The description of the proposal has been altered from the application form to the decision notice. That on the application form adequately describes the proposals and I have therefore determined the appeal on this basis. The address has been taken from that on the appeal form and Council decision notice.
3. The Council has drawn my attention to Local Plan Policy it considers to be relevant to this appeal and I have taken it into account as a material consideration. However, powers under the Regulations 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.

Reasons

4. The advertisement would be incorporated as part of a bus stop adjacent to the northbound carriageway of the busy Benton Road. It would be in the main viewed against the commercial parade which dominates the western side of the road south of its junction with the A191 closely to the north.
5. The units within the commercial parade incorporate a range of brightly coloured advertisements within their frontages, some of which are illuminated. The closest property on the other side of the road is occupied by a surgery. While extensive residential areas span to the west, south and east of the site, the character of the area close to the bus stop is overtly commercial.
6. Whilst the digital nature of the advertisement would represent a change from the more traditional advertisements on the nearby commercial premises, it would not be excessive in size and would just form another part of the commercial landscape on this part of Benton Road. It would not therefore be at odds with the character of the area.
7. Subject to the imposition of a number of conditions, I am satisfied that the advertisement would cause no harm to the visual amenity of the area and would be acceptable in terms of public safety. It would therefore accord with the amenity and public safety aims of Policy CS15 of the Core Strategy and Urban Core Plan (CS) (2015) and Policy DM20 of the Development and Allocations Plan (DAP) (2020). I have not found conflict with Policy CS13 of the CS nor Policy DM14 of the DAP.

Other Matters

8. The Council have drawn my attention to a number of other planning appeals stated to relate to similar digital bus shelter developments which were dismissed. However, I have not been provided with any details as to the location or context of any of these proposals, which may have been different to those before me. I therefore afford this matter very limited weight.

Conditions

9. In addition to the five standard conditions set out in the Advertisement Regulations some further conditions are necessary. These are closely based on those suggested by the parties. They limit the intensity of luminance during the hours of darkness, limit display changes and place restrictions on the type of images that can be displayed.
10. Lighting Guidance¹ does not recommend maximum levels of luminance for displays during the daytime. The evidence indicates that the advertisement incorporates a built-in system that adapts luminance throughout the year as required. The imposition of a maximum luminance level during the daytime as suggested by the Council would therefore be unreasonable and the reasons for the inclusion of such a condition have not been clearly justified.

¹ Professional Lighting Guide 05 The Brightness of Illuminated Advertisements ILP.

Conclusion

11. For the reasons above, the appeal should be allowed.

T J Burnham

INSPECTOR