



Appeal Decision

Site visit made on 22 September 2021

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 October 2021

Appeal Ref: APP/D1265/H/21/3274297
237 Portland Road, Weymouth DT4 9BH

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) against conditions imposed when granting express consent.
 - The appeal is made by Clear Channel UK Ltd against the decision of Dorset Council.
 - The application Ref WP/20/00782/ADV, dated 21 October 2020, was approved on 9 March 2021 and express consent was granted subject to conditions.
 - The development permitted is replace existing signage with internally illuminated digital sign.
 - The conditions in dispute are Nos 10 and 11 which state that:
 - 10. The maximum level of illuminance of the display shall not exceed 100cd/m²*
 - 11. the hereby approved advertisement shall not be in use between 20:00pm and 08:00am. During these hours the display shall not emit any illuminance or show any images.*
 - The reasons given for the conditions are:
 - 10. In the interest of local amenity and highway safety.*
 - 11. In the interests of local amenity.*
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Decision

1. The appeal is allowed and express consent Ref WP/20/00782/ADV to replace existing signage with internally illuminated digital sign at 237 Portland Road, Weymouth DT4 9BH, granted on 21 October 2020 by Dorset Council, is varied by deleting conditions 10 and 11 and substituting them for the following conditions:
 - 1) Illumination of the advertising display hereby approved shall accord with the Institute of Lighting Professionals publication The Brightness of Illuminated Advertisements PLG05 2015 during daylight periods. At night (dusk to dawn) the display shall not exceed 100cd/sqm.
 - 2) The hereby approved advertising display shall be switched off between the hours of 22:00 and 06:00.

Procedural Matters

2. S79(1) of the Town and Country Planning Act 1990 allows me to allow or dismiss the appeal or reverse or vary any part of the decision (whether the appeal relates to that part or not) and I may deal with the application as if it had been made to me in the first instance.
3. The decision maker shall exercise its powers under the Regulations in the interests of amenity and public safety. This is echoed by Paragraph 136 of the National Planning Policy Framework. The Regulations state that 'amenity' should be interpreted to include aural and visual amenity.

Background and Main Issue

4. The site is a static advertisement display offset but close to the rear elevation of 19 Ferrybridge Cottages, aside Portland Road. Express consent has been granted under Ref WP/20/00782/ADV to replace it with an internally illuminated digital sign in the same scale and position. Conditions 10 and 11 of the consent respectively restrict the luminance and hours of operation of the display.
5. The appellant is seeking to vary these conditions to make them less onerous in terms of daytime luminance and hours of operation. Illumination would continue to be restricted to 100cd/sqm from dawn to dusk but would be in line with industry standards during the day. A shorter curfew would be imposed between 22:00 and 05:00 or 06:00. As such, the main issue is the effect that varying conditions 10 and 11 would have on amenity and public safety.

Reasons

6. The site already has a similarly sized and position sign. Its suburban context is dominated by Portland Road. At night it is reasonably well lit by streetlamps and passing traffic. I understand that Ferrybridge Cottages have a degree of provenance as historic worker's dwellings. However, given their present lit and modern setting, and the offset relationship between the display and the adjacent terrace, they are not sensitive to the level of illumination proposed.
7. 19 Ferrybridge Cottages does not have bedrooms at first floor but has a bedroom window at ground level in its rear elevation. However, the window would be largely screened from the illuminated display by their offset positions and by a side return abutting its reveal and the rear yard wall of the property. As such, the proposal would have a limited impact upon the visual aspects of amenity. There is no evidence that aural amenity would be challenged.
8. These limited effects would be obviated by the night-time luminance restrictions already offered by condition 10 and a curfew. That said, given the circumstances above, I accept the appellant's submission that the curfew as currently set out by condition 11 is unnecessarily onerous. The alternative hours 22:00 to 06:00 are more proportionate and reflective of the need to safeguard sleeping conditions during core night-time hours.
9. The Council considers the reference to the Professional Lighting Guide 05 (PLG 05) Brightness of Illuminated Advertisements to result in an imprecise and unenforceable condition. However, I do not agree as this document prescribes a precise maximum daytime luminance of 5,000cdm⁻². Whilst the Council is also concerned about changing light conditions over the course of a day, it is reasonable to conclude that the drafting of this expert guidance would have had this particular issue in mind when setting the limit that it did.
10. The sign would be visible to highway users heading north. Vehicles at this point are moving slowly, having just left the roundabout to the south, and have good visibility up Portland Road beyond the proposed sign. On this basis, the illumination of the display to the extent suggested would be acceptable with regard to public safety. Accordingly, conditions 10 and 11 should be deleted and replaced as suggested. On this basis, I shall allow the appeal.

Matthew Jones
INSPECTOR