



Appeal Decision

Site Visit made on 19 October 2021

by R Walmsley BSc, MSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2021

Appeal Ref: APP/Z5060/H/20/3264494

**Bestway Cash And Carry, Gascoigne Wharf, Alfreds Way, Barking,
London IG11 0AX**

- 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 Global against the decision of London Borough of Barking and Dagenham Council.
 - The application Ref 20/00036/ADV, dated 10 January 2020, was approved on 12 October 2020 and express consent was granted for the display of an advertisement subject to conditions.
 - The advertisement permitted is replacement of existing advertisement hoarding with 1 x 48 sheet hoarding incorporating digital LED display.
 - The conditions in dispute are: No 4 which states that *'Due to the advertisements close proximity to the A13 carriageway and the intent to capture motorists attention discussions and requests have been made previously to monitor and agree the type of advert that cannot be displayed by the advertising company. 1) No special visual effects of any kind are permitted during the time that any message is displayed. The displayed image must not include animated, flashing, scrolling, intermittent or video elements. 2) No visual effects of any kind to be permitted to accompany the transition between any two successive messages. The replacement image must not incorporate any fading, swiping or other animated transitional method. 3) The frequency of the images must not be more often than 1 image change per every 15 seconds. 4) The sequencing of messages relating to the same product is prohibited. 5) The intensity of the luminance of the advertisement shall be no greater than 600Cdm2 during hours of darkness. 6) The sign must be in conformity with the latest guidance note from the Institute of Lighting Engineers.*
And No 5 which states that *'Prior to installation of the advertisement sign a Construction, Maintenance and Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This plan must include specific arrangements to ensure that the footway and carriageway on the A13 is not blocked during the construction and maintenance of the proposal. Temporary obstruction during the installation is kept to a minimum and should not encroach on the clear space needed to maintain the flow of traffic. No servicing vehicles associated with the proposed signs shall park/ load/ unload on the footway/ carriageway of the A13 at any time.'*
 - The reasons given for the conditions are: No 4: *'In the interests of the visual amenity of the area, and to ensure that the advertisement does not prejudice the free flow of traffic or conditions of general safety along the adjoining highway,'* And No 5: *'To ensure that the advertisement does not prejudice the free flow of traffic or conditions of general safety along the adjoining highway.'*
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Decision

1. The appeal is allowed and express consent is granted for the replacement of existing advertisement hoarding with 1 x 48 sheet hoarding incorporating digital LED display, with condition No.4 on approved application Ref 20/00036/ADV varied and condition No.5 retained. 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:
 - i) The maximum luminance of the advertisement sign shall not exceed the levels recommended in The Institute of Lighting Professionals technical guidance note PLG05 "The brightness of illuminated advertisements" 2015 or in any document amending or superseding that report.
 - ii) Due to the advertisement's close proximity to the A13 carriageway and the intent to capture motorists attention discussions and requests have been made previously to monitor and agree the type of advert that cannot be displayed by the advertising company.
 - a. No special visual effects of any kind are permitted during the time that any message is displayed. The displayed image must not include animated, flashing, scrolling, intermittent or video elements
 - b. No visual effects of any kind to be permitted to accompany the transition between any two successive messages. The replacement image must not incorporate any fading, swiping or other animated transitional method.
 - c. The frequency of the images must not be more often than 1 image change per every 10 seconds.
 - d. The sequencing of messages relating to the same product is prohibited.
 - e. The intensity of the luminance of the advertisement shall be no greater than 600Cdm² during hours of darkness.
 - f. The sign must be in conformity with the latest guidance note from the Institute of Lighting Engineers.
 - iii) Prior to the installation of the advertisement, a Construction, Maintenance and Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This plan must include specific arrangements to ensure that:
 - a) The footway and carriageway on the A13 is not blocked during the construction and maintenance of the proposal
 - b) Temporary obstruction during the installation is kept to a minimum and does not encroach on the clear space needed to maintain the flow of traffic
 - c) Servicing vehicles associated with the advertisement do not park/ load/ unload on the footway/ carriageway of the A13 at any time.

All measures in the Construction, Maintenance and Management Plan shall be implemented as long as any part of the development exists.

Procedural matter

2. Paragraph 136 of the National Planning Policy Framework (the Framework) advises that there is a separate consent process to control the display of advertisements. The Framework, the Regulations, and the Planning Practice Guidance (PPG) all make it clear that advertisements are controlled with reference only to their effect on amenity and public safety. The provisions of the development plan, and any other relevant factors, can be considered, so far as they are material. I have assessed the proposal in accordance with the Regulations.

Main Issues

3. The main issues are the effect of the proposed advertisement on the visual amenity of the area and public safety, should the conditions be removed or varied.

Reasons

4. The sign would be highly visible to pedestrians, cyclists and drivers travelling along Alfreds Way. As such, the frequency of the images would have a notable effect on the character and appearance of the area and public safety.
5. The Council have raised no concern for the effect of the proposal on the character and appearance of the area and there is nothing in the evidence before me to suggest that I should take a different view.
6. I agree with the appellant that based on the road being limited to a traffic speed of 50mph, a display duration less than the 15 seconds stated in condition 4 would be acceptable according to Transport for London's Guidance for Digital Roadside Advertising and Proposed Best Practice (2013). The Council have provided no evidence to the contrary.
7. The appellant suggests a frequency of images of no more than 1 image change per every 10 seconds. 10 seconds is a sufficient length of time for an image to remain stationary and allow a driver, travelling at 50 mph, to pass safely without being distracted by the movement of more than one image. On this basis I am satisfied that varying condition 4 accordingly would not have a harmful effect on public safety.
8. The sign is close to a footpath, cycleway and road. The verge in which the sign is situated is narrow. It is highly likely, therefore, that during the construction and maintenance of the sign, there will be a temporary obstruction of the highway whilst the works are carried out. It is important, therefore, to make sure that the free flow of and safety of pedestrians, cyclists and other road users is maintained during these works. Whilst aspects of highway safety may be covered by the highway licencing regime, it is important to make sure that the proposal is acceptable in planning terms. On this basis, condition 5 is necessary and reasonable. Removing it would have a harmful effect on public safety.
9. And so, I find that express consent can therefore be granted with condition 4 suitably varied and condition 5 retained.

Conditions

10. The consent is granted subject to the five standard conditions set out in the Regulations. As a result the standard time limit and compliance with plans conditions are not necessary. I have attached a non-standard condition relating to luminance levels in the interests of visual amenity. I have varied the wording of condition 4 and retained condition 5 in accordance with my reasons and in the interests of public safety.

Conclusion

11. For the reasons outlined above, the appeal is allowed.

R Walmsley

INSPECTOR