



Appeal Decision

Site visit made on 1 March 2022

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st March 2022

Appeal Ref: APP/A2280/Z/21/3279285

Land at the Junction of Rainham Road and Canterbury Street, Gillingham, Medway ME7 5NQ

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) against a refusal to grant express consent.
 - The appeal is made by Wildstone Group Limited against the decision of Medway Council.
 - The application Ref MC/21/0920, dated 22 March 2021, was refused by notice dated 24 May 2021.
The advertisement proposed is described as the "removal of 3 x paper and paste boards and replacement with 1 x digital board".
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Decision

1. The appeal is allowed and express consent is granted for the removal of 3 x paper and paste boards and replacement with 1 x digital board at Land at the Junction of Rainham Road and Canterbury Street, Gillingham, Medway ME7 5NQ. 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 additional conditions on the attached schedule.

Preliminary Matters

2. I have taken the address for the appeal site as described in the banner above from the Council's decision notice, as it more accurately reflects its location.
3. Since the submission of the appellant's appeal, the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. In light of this I sought the views of the main parties in writing and I have taken any subsequent responses into account in reaching my decision.

Main Issue

4. The Regulations, the Framework and the Planning Practice Guidance (PPG) all make it clear that advertisements should be subject to control only in the interests of amenity and public safety. Therefore, the main issue is the effect of the proposed advertisement on highway safety.

Reasons

5. The appeal site lies on the junction of the A2 Rainham Road and Canterbury Street. The junction is signalised with two lanes that allow traffic travelling west to be filtered, with one lane for vehicles turning right onto Canterbury Street and the other allowing traffic to continue straight over the junction. The existing paper and paste boards are positioned to the side of 161 Rainham

Road and are clearly visible from vehicles either turning into Canterbury Street or continuing straight over the junction. They are also visible from vehicles turning left into Canterbury Street.

6. The proposal seeks to remove and replace the existing paste and paper boards with a single digital board that would be positioned adjacent to the side elevation of No. 161. Traffic is managed at the junction through the use of traffic lights that also double as a signalised pedestrian crossing. There is a small parade of shops with a number of parking bays and an access onto Rainham Road, just beyond the traffic lights. Thus, drivers at this junction are subject to a number of distractions within this busy suburban environment.
7. The Council argue that any consent should be restricted to one year to allow data to be gathered regarding the effect of the digital advert on pedestrian and highway safety. Furthermore, the rate of display change should be restricted to 15 seconds, and not the 10 seconds as requested.
8. The appellant argues that there is a 12 month delay for the Department of Transport to provide data for traffic collisions and data from a single year is unlikely to be helpful in assessing the effect of the advert on pedestrian and highway safety. Moreover, a 10 second rate of change is in line with industry standards.
9. I acknowledge that the junction has been the subject of traffic collisions as detailed within the appellant's written statement. That said, although the Highway Authority may have access to accident records, I have not been presented with any evidence to verify that accidents at the site were as a result of the existing paper and paste adverts. Additionally, I have not been presented with any evidence that existing digital adverts elsewhere have been the cause of increased traffic accidents.
10. Therefore, in considering the proposal before me, I have had regard to the advice within the PPG which lists advertisements that may cause danger to road users¹. This includes a number of scenarios such as adverts that obstruct or impair sight-lines at corners or where its siting or size would obstruct or confuse a road-user's views, the clarity of traffic signs or likely to distract road-users because of their unusual nature. Other scenarios regarding movement, illumination or are the subject of frequent changes are also regarded as adverts that may cause danger to road users.
11. I note that the appeal site has been granted a one year permission for a digital advert on at least two occasions, which have not been implemented. Thus, the Council are satisfied that the appeal site is suitable for the digital advert, subject to those certain restrictions I have previously mentioned. I am also aware that an appeal to vary the one year consent and 15 second change interval was dismissed. However, as I have not been provided with a copy of the appeal decision by either party, the weight I can afford this as a material consideration is limited.
12. The speed of the highway traffic at this point of Rainham Road is largely constrained by a combination of the volume of vehicle movements and signal controlled junction. Consequently, given these specific road conditions the display would be visible from a sufficient distance and it would allow adequate

¹ Paragraph: 068 Reference ID: 18b-068-20140306 Revision date: 06 03 2014

time for it to be seen and its content noted by drivers without causing confusion or surprise on this busy section of road.

13. Moreover, taking a pragmatic approach to the matter before me, I am not persuaded that a one year consent for data to be provided would be reasonable as any data would be the subject of at least a one year delay. Consequently, even if the digital advert was erected this year, it is likely that any data recorded would not be available until the summer of 2024, given that the 12 month period would extend into 2023. Thus, it would be more beneficial for the parties if the appellant had a longer period of 36 months as suggested, which would also provide more reliable data to allow a proper assessment of the effect of the digital advert on pedestrian and highway safety.
14. Furthermore, although I acknowledge the Council's concerns, the use of digital displays of the size and form proposed are commonly experienced in using a suburban transport network, and there is nothing substantive before me to suggest that a 10 second change rate of advert would be more harmful than a 15 second one. Moreover, whilst the Highway Authority raise concerns that the sequential moving images of the advert would draw attention from pedestrians and drivers, the appellant has confirmed that it will only include static images with instant changing every 10 seconds. Moreover, as the sequencing of adverts will change instantly and does not include any fading, swiping or the merging of images, I am not persuaded that a 10 second change rate would be harmful. Thus, having regard to the PPG, the advert would not be of an 'unusual nature' and thereby is unlikely to be a distraction to road users in that respect.
15. Additionally, although the consent would also run for five years, a condition requiring the accident data analysis would also require the operator to comply with any additional restrictions, should they be necessary. Therefore, I am satisfied that a five year consent would be acceptable. Thus, provided that the illumination and display are appropriately controlled by conditions, and subject to the 36 month accident analysis, the proposed digital advertisement would be acceptable on the grounds of highway and pedestrian safety.
16. I have had regard to Policy BNE10 of the Medway Local Plan 2003, which seeks, amongst other things, to ensure that advertisements do not constitute a road safety hazard which would be likely to distract, confuse or obstruct the vision of road users. Nor do I find conflict with the Framework in so far as it relates to the design of advertisements.

Conditions

17. Although I have considered the conditions as suggested by the Council, I have also considered those suggested by the appellant, which more accurately reflect the those required for this type of display and achieve the aims mentioned above. In the interest of clarity, I have reworded them where necessary.
18. Thus, consent is granted subject to the standard conditions set out in Schedule 2 of the Regulations. As the Council's suggested conditions also include the five standard conditions, there is no requirement to repeat them. Along with the five year consent, it is necessary in the interest of certainty to specify the approved plans.

19. In the interest of highway safety, a condition requiring the submission of accident analysis to the Council within 36 months of the installation of the digital advert is required. The proposal shall not display adverts more than once every 10 seconds which must also change immediately and with no visual effects. The illumination of the digital advert shall not exceed 600 candela/sqm during the day and 300 candela/sqm at night and the existing adverts must be removed upon its erection.

Conclusion

20. For the reasons given above, and having regard to the development plan when read as a whole, the appeal is allowed.

Graham Wyatt

INSPECTOR

Schedule of Conditions

1. The advertisement consent hereby granted shall be for a period of 5 years from the date hereof. The applicant shall notify the Local Planning Authority in writing at least 10 days before the first use of the advertisement herein approved of the date of the first use.
2. The development hereby permitted shall be carried out in accordance with the following approved plan: Drawing numbers. 14314/PA/01, 14314/PA/02, 14314/PA/03 and 14314/PA/04.
3. At the time 36-months post installation of the date the advertisement herein is brought into use, the applicant shall submit an accident analysis to the local planning authority for its consideration. The operator must comply with any additional restrictions placed on the use of the display following the outcome of this report.
4. The display shall not change more than once every 10 seconds, unless otherwise agreed by the results of the 36-month accident analysis specified in condition 3.
5. The display hereby approved shall include static images only. The interval between successive images shall be 0.1 seconds or less and the complete screen shall change. There shall be no visual effects between successive images and the display shall include a mechanism to freeze or turn off the screen in the event of a malfunction. Each image shall be displayed for at least 10 seconds. Message sequencing or interactive messages shall not be used.
6. The advertisement hereby permitted shall operate at an illumination level no greater than 600 candela/sqm during the day and 300 candela/sqm at night.
7. Upon erection of the advertisement hereby permitted, the existing advertisements shall be removed from the site.

End.