



Appeal Decision

Site visit made on 11th July 2022

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2022

Appeal Ref: APP/Z1775/Z/22/3297197

Advertising Rights 3683 01, Copnor Road, Portsmouth, PO2 9RS

- 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 Mr Thomas Johnston (JC Decaux UK) against the decision of Portsmouth City Council.
 - The application Ref 22/00060/ADV, dated 19 January 2022, was refused by notice dated 15 March 2022.
 - The advertisement proposed is display of internally illuminated digital display.
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Decision

1. The appeal is allowed and express consent is granted for the display of internally illuminated digital display as applied for. 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 condition:

- 1) The intensity of the internal illumination of the digital display sign permitted by this consent shall be no greater than 300 cd/m² and shall be statically illuminated.

Procedural Matters

2. I have adopted the description of the proposed advertisement as it appears on the Council's decision notice.
3. Whilst Section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply to advertisement appeals, Regulation 3(1) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 does allow the provisions of the development plan to be taken into account if they are material. The Council have drawn my attention to policy PCS23 of The Portsmouth Plan (2012) (TPP), but have not indicated which part they consider material to this appeal. I am not convinced of its direct relevance given that the policy relates to the design and conservation of new development. However, insofar as the policy seeks to generally protect amenity I have taken this into account, as that issue is material in this case.

Main Issue

4. The main issue is the effect of the digital display sign on amenity.

Reasons

5. The appeal site comprises an existing advertising hoarding located adjacent to the junction of Copnor Road and Old London Road. To the north are two

further advertising hoardings, which do not form part of the appeal proposal. The existing advertising hoarding has a printed image that the Appellant indicates is lit from behind and changed every two weeks. The hoarding is orientated to face traffic approaching the appeal site on Copnor Road. Whilst there are residential properties to the south west, on Old London Road and to the north west on Copnor Road, they do not have any direct views of the appeal site. Although the residential properties to the north east, on Parsons Close do have views of the appeal site, these properties are set well back from the road and appeal site, and the views are at an oblique angle across a large road junction with extensive street lighting. To the south of the appeal site is an open greenspace.

6. The appeal proposal involves the replacement of the existing advertising hoarding with a similar single sided panel, marginally larger than existing, with an internally illuminated digital display. The proposed images would be static and the transition from one image to the next would be instantaneous. The maximum illumination would be 300 cd/m².
7. Paragraph 136 of the National Planning Policy Framework (July 2021) (Framework) states that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts. The Council have not raised any objection to the proposed sign on public safety grounds. In relation to amenity, paragraph 079 of the Planning Practice Guidance (PPG) chapter on advertisements states that this usually means the effect on visual and aural amenity. The Council's objection relates to the effect on visual amenity only.
8. Whilst I accept that the replacement of the existing hoarding with a digital display, where the images would transition from one to another, would result in a change in the appearance and form of the signage in this location, I am not convinced from the evidence before me or from my observations on site that these changes would result in any adverse affect on the visual amenities of the surrounding area. The difference between the existing and proposed advertisement would not, in my judgement, be so material or so significant as to result in any visual harm and I disagree with the Council, and consider that the proposed digital display would not be incongruous or visually obtrusive.
9. The above findings are supported by the fact that the proposed level of illumination would be low and would take place against the backdrop of extensive existing street lighting. As I also observed on my site visit, the junction of Copnor Road and Old London Road is extremely busy and in terms of local characteristics, there are no historic, architectural or cultural features in the area that would be impacted on or adversely affected by the proposed sign. In relation to scenic features, having viewed the appeal site from the open greenspace opposite, I am satisfied that the proposed digital display, within a marginally larger panel than existing, would not adversely affect the visual amenities of the greenspace or the views from it or its setting.
10. Therefore, I find that the proposed internally illuminated digital sign would not represent an incongruous or visually discordant feature and would not adversely affect the visual amenities of the surrounding area.
11. In reaching this finding, I have taken into account policy PCS23 of the TPP insofar as it seeks to generally protect amenity, and so is material in this case.

Given that I have concluded that the proposal would not harm amenity, the proposal does not conflict with this policy.

12. Whilst not mentioned in the Council's reason for refusal, its Officer Assessment (report) contends that a cumulative impact would arise if the adjoining advertising hoardings were also digitalised, on the assumption that if consent were granted for the appeal proposal it would make it difficult for the Council to resist these hoardings being digitalised as well. However, the proposal that is the subject of this appeal simply involves replacing the existing advertising hoarding with a marginally larger digital display. The acceptability or not of replacing the adjoining hoardings with similar digital displays is not a matter that is before me. Whilst acknowledging the presence of these other hoardings, I have dealt with the appeal proposal on its individual merits and, as set out above, I have found the proposal to be acceptable for its own specific reasons.

Conditions

13. The Council has suggested several non-standard conditions which I have considered against the advice in the Framework and the PPG chapters on the use of planning conditions and advertisements. A condition seeking to control the level of illumination is necessary and reasonable in the interests of visual amenity, and to reflect the details set out in the application.
14. The Council have also suggested conditions to control the nature of the proposed digital display, the minimum duration of each image and the action to be taken if there was a fault with the sign. Paragraph 034 of the advertisement chapter to the PPG states that if a Council seeks to impose additional conditions, other than the standard conditions, "*these must be supported by specific and relevant planning reasons.*" The Council's 'Reason' for these conditions is stated as being "*In the interests of highway safety*" in accordance with policy PCS23 of TPP and the aims and objectives of the Framework.
15. Even so, the Council have provided no reference or indication as to which part of policy PCS23 or the Framework they consider relevant or would support the imposition of these conditions. Furthermore, no specific and relevant planning reasons are given for the imposition of these conditions, and there is no substantive evidence before me, in the form of, for example, a consultation response or statement from the relevant highway authority to justify the need for such controls. Moreover, as I confirmed above, the Council did not raise any objections to the proposed sign on public safety grounds. For all the above reasons, I am not satisfied, therefore, that there are any specific and relevant planning reasons to support these additional conditions.

Conclusion

16. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

G Roberts

INSPECTOR