



Appeal Decision

Site visit made on 20 September 2022

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2022

Appeal Ref: APP/U1105/Z/21/3286343

A303 Services, Honiton, Yarcombe, Devon EX14 9ND

- 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 Mohammed Sherbaz against the decision of East Devon District Council.
 - The application Ref 21/0236/ADV, dated 8 August 2020, was refused by notice dated 17 September 2021.
 - The advertisement proposed is retention of 1 no. internally illuminated totem pole sign.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development has been taken from the Council's decision notice as it describes the proposal more accurately.

Main Issue

3. The main issue is whether the advertisement is acceptable having regard to public safety.

Reasons

4. Paragraph 136 of the National Planning Policy Framework (the Framework) sets out that advertisements should be subject to control only in the interests of amenity and public safety. In this case, from the evidence, the advert has been displayed at the site since it was installed around 2019. The Council's refusal is based on a public safety concern.
5. The advert is displayed in an area of the verge adjacent to the north of the A303 and at the edge of the service station's forecourt. The advert has allegedly replaced one of the same size and format that displayed details of the former operator of the service station. The site falls within a Special Area of Control of Advertisements.
6. Highways England, as operator responsible for the trunk roads, initially indicated that it had concerns about whether the land on which the advert is sited fell within its operational boundary as a part of the trunk road. Though limited evidence of this nature has been provided to me, it is claimed that these concerns no longer apply.
7. However, two other concerns remain outstanding. One relating to the design of the advert, including its foundations, which should conform with the Design

Manual for Roads and Bridges (DMRB) Standard CG 300, and should be submitted with a relevant certificate for 'Category 0' structures confirming the same. The other relates to whether the advert is sited a suitable distance away from the trunk road to avoid toppling onto it. This requires the submission of information to confirm its collapse radius.

8. The request for information raised in the Highways England response has not been provided. Consequently, I do not have satisfactory evidence of the accordance with the design of the structure to the necessary standards or be certain of its collapse radius. Therefore, I can only conclude that there could be a risk to public safety if I were to allow the appeal.
9. In the absence of information to the contrary, the advert is unacceptable having regard to the need to protect public safety. It therefore conflicts with Policy D4 of the East Devon Local Plan 2013-2031 (2016) which seeks to ensure that adverts do not create a hazard to traffic safety, whether vehicular or pedestrian.

Other Matters

10. The appellant asserts that no further information was requested by the Council before the decision was issued. If that is the case, then it is regrettable, as it appears that a considerable period of time elapsed between Highways England's comments being received and the decision being issued. However, such an accusation does not resolve the matter in dispute.
11. Though it is suggested that the Council should hold previous records about the construction of the sign, these are not before me, and it is not clear from the evidence how much of the former structure has been retained to support the new advert in any event.
12. It is also suggested that the advert does not need consent, assumedly because it may benefit from deemed consent under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. However, there is limited evidence to support this assertion and the appeal has been submitted to me to determine following enforcement action instigated by the Council. It is not the remit of this appeal to consider whether the consent sought is technically required.

Conclusion

13. Whilst it appears that the advert currently in situ has stood on the site without harm to public safety to date, it cannot be assumed that its structure or siting relative to the trunk road would ensure public safety in the long term.
14. For the foregoing reasons, the appeal is dismissed.

Hollie Nicholls

INSPECTOR