



Appeal Decision

Site visit made on 3 April 2023

by C Harding BA(Hons) PGDipTRP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 APRIL 2023

Appeal Ref: APP/Z5630/Z/22/3307983

Land at Goals Tolworth, Decker Sports Ground, Kingston Road, Tolworth KT5 9NT

- 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 Benjamin Porte on behalf of Clear Channel UK against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref 22/00640/ADV, dated 24 February 2022, was refused by notice dated 5 August 2022.
 - The advertisement proposed is removal of 2no Goals signs and the installation of a single illuminated 48-sheet digital poster display.
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Decision

1. The appeal is allowed and express consent is granted for the removal of 2no Goals signs and the installation of a single illuminated 48-sheet digital poster display as applied for. The consent is for ten 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:
 - (a) The advertisement hereby approved shall only incorporate static illumination and shall not feature intermittent or flashing lights;
 - (b) During periods of darkness, the luminance level of the advertisement hereby approved shall not exceed 300 candela/sqm;
 - (c) The advertisement hereby approved shall only show two-dimensional static images, shall contain no moving images, animation, video or full motion images and no messaging should spread across more than one screen image;
 - (d) The advertisement hereby approved shall be switched off between the hours of 23.00 and 05.00;
 - (e) The display of the advertisement hereby approved shall not change more frequently than every 10 seconds.

Preliminary Matters

2. The site address given on the appeal form differs from that on the planning application form. From the evidence before me, the location of the appeal site is clear, and I have used the address given on the planning application form.
3. The planning application form indicates that the period for which consent is sought is ten years, as opposed to the five years set out at Regulation 14(7)(b)

of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 ('the Regulations'), and my decision reflects this accordingly.

4. The Regulations state that the control of advertisements may be exercised only in the interest of amenity and public safety, taking into account the provisions of the development plan, so far as they are material; and any other relevant factors.

Main Issue

5. The main issue is the effect of the proposed advertisement upon the amenity of the area and public safety.

Reasons

6. The appeal site relates to a location at the boundary of an outdoor sports facility and adjacent to the foot and cycleway alongside the A240 road, which in this location has a wide carriageway, and the car park of the sports facilities. Opposite the appeal site, across the A240, are commercial buildings of a substantial scale, and to the north, is a raised railway line and associated bridge. In the immediate vicinity of the appeal site, the boundary of the sports facility is open link mesh fence and forms a visual gap in a boundary which otherwise comprises mature hedgerow and trees. There is currently an existing large poster advert in the position of the appeal proposal which would be removed and replaced.
7. The appeal site falls within Metropolitan Open Land ('MOL'). The Council has raised concern that the proposed advertisement would represent inappropriate development within MOL, would have an adverse effect upon the openness of the MOL, and that no 'very special circumstances' exist which would outweigh such harm, including any other harm.
8. However, as the Regulations limit the control of advertisements to only in the interests of amenity and public safety, matters in relation to the effect of the proposed advertisement on MOL, including issues relating to 'appropriateness', 'other considerations' and 'very special circumstances' do not apply.
9. Consequently, Policy G3 of the Royal Borough of Kingston upon Thames Core Strategy¹ and Policy DM5 of the London Plan which the Council considers relevant to this appeal, along with policies and advice contained within the National Planning Policy Framework ('the Framework') and Planning Practice Guidance in relation to development within MOL are not relevant to my decision.
10. The proposed advertisement would be larger than that which would be removed, although not significantly so. It would also comprise a digital display capable of cycling on a ten-second interval in comparison to the poster signage which currently occupies the appeal site. However, the surrounding area is predominantly urban and commercial in character and there are other examples of large advertisements.
11. The appellant has set out parameters within which it is proposed that the digital display would be operated, and includes limitations on luminance, hours of operation, and static illumination and display. Subject to the proposed

¹ Royal Borough of Kingston upon Thames Local Development Framework Core Strategy 2012

parameters of operation, which can be secured by means of condition, despite its digital nature, the proposed advertisement would not appear as an incongruous addition to the streetscene. Furthermore, as it would replace an existing advertisement of similar scale, it would not lead to additional visual clutter. Overall, I am satisfied that the proposed advertisement would not appear as incongruous, over-dominant or unduly prominent in relation to the streetscene.

12. With regard to public safety, the advertisement would be set back from the edge of A240, and within the site of the sports facility. It would not easily be mistaken for a traffic signal or road sign and would be situated within a well-lit location which would naturally reduce its comparative prominence at night.
13. Furthermore, as the advertisement would have a limited level of illumination, incorporate static images and illumination, and would not cycle between images at a frequency of less than 10 seconds, it would not draw the eye to such a degree that it would cause a distraction to drivers. The proposed advertisement, would not, therefore, have a harmful effect on public safety.
14. Having regard to all of the above, I conclude that the proposed advertisement would not harm amenity or public safety.

Conditions

15. The Council has suggested a condition in addition to those set out in the Regulations. Those aspects of the condition which relate to requiring static illumination and precluding moving images; controlling luminance levels to no more than 330 candela/sqm at night; restricting the hours of operation; and restricting changes of display to be no more frequent than every 10 seconds, are required in the interests of public amenity and highway safety.
16. I have split the clauses of the suggested condition into separate conditions in the interests of clarity and I have also omitted an aspect of repetition with regards to intermittent illumination. With regard to luminance level, I have removed reference to levels set out in the PLG05 guidance² as a maximum luminance of 300 candela per square metre is otherwise specified, which is sufficiently precise.
17. I have not attached the suggested condition relating to the visibility of the illumination source as I consider the requirements of this condition to be ambiguous, and therefore it would be imprecise, having regard to the tests set out in the Framework.

Conclusion

18. For the reasons given above, I conclude that the appeal should be allowed and express consent granted subject to the conditions set out.

C Harding

INSPECTOR

² Professional Lighting Guide 05 PLG 05 – The Brightness of Illuminated Advertisements, 2014