



Appeal Decision

Site visit made on 5 September 2023

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2023

Appeal Ref: APP/V2004/Z/22/3311659

Land adjacent Starbucks Coffee, Clough Road, Hull HU6 7QA

- 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 Ben Porte, Clear Channel UK against the decision of Kingston-Upon-Hull City Council.
 - The application Ref 22/00960/ADV, dated 16 August 2022 was refused by notice dated 12 October 2022.
 - The advertisement proposed is for the display of 2 x illuminated 48-sheet digital advertisement displays with associated vertical meadow green walls.
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Decision

1. The appeal is allowed and express consent is granted for the display of 2 x illuminated 48-sheet digital advertisement displays with associated vertical meadow green walls 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 conditions:-
 - 1) The intensity of the luminance of the advertisement hereby granted consent shall be no greater than 3000 cd/sqm metre during daylight hours and shall be no greater than 300 cd/sqm during evening/night-time hours. The advertisement shall be equipped with a dimmer control mechanism and a photo cell which shall constantly monitor ambient light conditions and adjust brightness accordingly.
 - 2) The image shall not change more frequently than every 10 seconds.
 - 3) Advertisements shall be a series of static images, which shall not feature any flashing, moving or apparently moving images of any kind.
 - 4) The advertisement shall be switched off between the hours of 23.00 and 05.00.

Preliminary Matters

2. The Council has drawn my attention to Development Plan policies and Supplementary Planning Guidance (SPG) it considers relevant to this appeal, and I have taken them into account where relevant. However, powers under the Regulations¹ to control advertisements may be exercised only in the interest of amenity and public safety, taking account of any material factors. The National Planning Practice Framework (Framework) and the Planning Practice Guidance (PPG) reiterate this approach.

¹ The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended)

Main Issue

3. The main issue is the effect of the proposed advertisement on the visual amenity of the area.

Reasons

4. The appeal site is located on the northern side of Clough Road in a small, landscaped area associated with the frontage of a 'drive-thru' food outlet in front of a brick pitched roof sub-station. The Council describes the area as primarily a commercial and industrial area, characterised by large retail warehouses and smaller commercial units, with residential properties on the periphery. This reflects my own observations. There are several advertising totems, freestanding signs and fascia signs of various sizes on existing buildings which are all highly visible from the highway.
5. The proposal consists of two freestanding internally illuminated 48 sheet poster displays set in a 'V' shape. It would have two sides facing eastern and western directions at an angle to the highway. The proposal would also include a vertical meadow below the digital screen. The frequency of images is proposed to be no greater than once every ten seconds and there would be no moving images, video or flashing lights displayed.
6. The PPG² outlines that large poster-hoardings may be permitted in an industrial or commercial area of a major city (where there are large buildings and main highways) where the advertisement would not adversely affect the visual amenity of the area. The proposal is situated within an industrial/commercial context with a variety of small to large buildings forming the backdrop to advertisement. The wider area comprises a busy commercial road. Although the proposal would be illuminated the highway appears to be well served by street lights, and commercial buildings are likely to emit some light. There is no evidence presented that this is an inherently dark area. As such the proposed advertisements would be appropriate within their setting and the level of illumination can be controlled by condition and in accordance with lighting guidance.
7. The advertisements would be set well back from the highway and would not encroach on the pedestrian footway. The proposal would be sited in front of the approximate building line on this part of Clough Road. They would be highly visible along this long straight stretch of road. However, their siting would not be inconsistent with the position of other advertisements on this very commercialised carriageway, and they would not be unduly prominent.
8. The drawings show the sign would be below the apex of the brick substation behind it. The 'drive thru' totem and other commercial buildings would also be taller. When viewed in the context of these and with the existing signage in the locality the advertisements would not be out of scale with the surrounding infrastructure and commercial buildings in the immediate area. The proposed vertical planting beneath the advertisement would help mitigate and screen the supporting structures ameliorating the visual impact upon the open frontage.
9. I acknowledge that there are numerous advertisements of varying quality along Clough Road. The northern side in particular has a run of several totem signs. The opposing side of the road has limited signage and street trees, and the

² Paragraph: 079 Reference ID: 18b-079-20140306

area as a whole did not appear overwhelmed by advertisements. Whilst I acknowledge the proposed development would add to the number of advertisements, they closely relate the commercial activities behind and would not be so fundamentally at odds with the existing character of the area that it would cause harm to amenity.

10. There are residential properties in the vicinity of the site, the Council has not raised any concerns regarding neighbouring living conditions. I agree with this view, as the distances are sufficient to prevent harmful impacts, and in any event as noted above, the level of illumination can be controlled by condition and switched off during depth of the night.
11. The Framework advises that the visual quality and character of places can suffer when advertisements are poorly sited and designed. Having viewed the site from various aspects along Clough Road I am satisfied that, subject to control of the illumination and timing of display the proposed displays would not harm the amenity of the area.
12. I have taken into account the relevant Development Plan Policies and SPG referred to in the Council's decision which seek to protect amenity through good design and so are material in this case. Given I have concluded that the proposal would not harm amenity, the proposal would not conflict with these policies or the Framework in respect of this matter.

Other Matters

13. The Council's Highway Development Control section has objected to the proposals. Citing that the position of the sign close to the junction will distract driver attention, they consider there would be an increased risk of collision. However, this view has not been transposed to the Council's reason for refusal.
14. The PPG³ advises that advertisements are intended to attract attention. At points where drivers need to take more care are more likely to affect public safety. This includes junctions, roundabouts, pedestrian crossings, on the approach to a low bridge or level crossing, or other places where local conditions present traffic hazards.
15. The proposed advertisement would be located in close proximity to the priority access serving the business to the rear of the appeal site. The advertisements would be highly visible to east and west bound traffic. However, the junction is not signalised, Clough Road is straight, and speed is limited to 30mph. The pedestrian footway is wide, and the nearest traffic island is away from the site and not a designated crossing point. I do not have any evidence that the proposal would obscure visibility or interfere with road signs. There is no evidence presented in relation to accident records or that the priority access is particularly difficult to navigate.
16. Whilst the nature of the advertisement has the potential to be a distracting feature, it would not be overly prominent and would only display static images. The changeover period between advertisements can also be restricted by condition. Therefore, pedestrians and motorists are unlikely to be fixated on or significantly distracted by the proposed digital displays. Furthermore, the PPG advises that there are less likely to be road safety problems if the advertisement is on a site within a commercial or industrial locality.

³ Paragraph: 067 Reference ID: 18b-067-20140306

17. For these reasons, I concur with the findings in the Council's officer report on this matter that the proposal would be acceptable in respect of public safety. The proposal would therefore not conflict with the provisions of the Framework, which seek to ensure road safety.

Conditions

18. I have imposed the five standards conditions as set out in the regulations. As these conditions are set out in the Regulations it is not necessary for me to list them in my formal decision, even though they apply to the consent granted.
19. I have considered the list of conditions advanced by the appellant, typically applied to such proposals. I have altered some of the suggested wording in the interests of precision. Conditions are necessary to control levels of luminance [1], the frequency of changes of the images [2], a restriction relating to the display of static images [3], and the hours that the display can operate [4]. These are all imposed in the interest of public safety and visual amenity.

Conclusion

20. For the reasons given above and having had regard to all other matters raised, I conclude the appeal should be allowed subject to conditions.

K Williams

INSPECTOR