



Appeal Decision

Site visit made on 5 December 2023

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2023

Appeal Ref: APP/A2280/H/23/3323868

27 Watling Street, Medway, Gillingham ME5 7HQ

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against conditions imposed when granting express consent.
- The appeal is made by Mr Ben Porte of Clear Channel UK against the decision of Medway Council.
- The application Ref MC/23/0718, dated 23 March 2023, was approved on 17 May 2023 and express consent was granted for the display of an advertisement subject to conditions.
- The advertisement permitted is for the installation of an internally illuminated 48-sheet D-Poster (digital) display to the side of the building.
- The condition in dispute is Nos 7 which states that: *The advertisement hereby consented shall operate at an illumination level no greater than 600 candela/sqm during the day and 300 candela/sqm at night.*
- The reasons given for the conditions are: *To ensure that the display does not prejudice conditions of visual amenity or highway safety in accordance with Policy BNE10 of the Medway Local Plan 2003.*

Decision

1. The appeal is allowed and the advertisement consent Ref MC/23/0718 for the installation of an internally illuminated 48-sheet D-Poster (digital) display to the side of the building at 27 Watling Street, Medway, Gillingham ME5 7HQ granted on 17 May 2023 by Medway Council is varied by deleting condition 7 and substituting for the following condition:
 - 7) The maximum level of luminance of the advertisement sign hereby permitted shall be no greater than 2500 cd/sqm between sunrise and sunset and shall be no greater than 300 cd/sqm during sunset and sunrise. The advert shall be equipped with a dimmer control mechanism and a photocell which shall constantly monitor ambient light conditions and adjust brightness accordingly.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) and the National Planning Practice Guidance (NPPG) make it clear that advertisements should be subject to control only in the interests of amenity and public safety. I have had regard to the policies of the development plan only in so far as they are a material consideration relevant to the matters before me.

Main Issues

3. The main issues are whether the disputed condition is reasonable and necessary in the interests of visual amenity and public safety.

Reasons

Amenity

4. The appeal site is located on the western flank elevation of No 27 Watling Street adjoining the Chatham Fire Station. The surrounding area is mixed-use with residential, service, commercial, retail and office facilities all located near one another. The host property is a commercial building located outside the Watling Street Local Centre, fronting Watling Street (A2) a busy thoroughfare.
5. Medway Council granted express advertising consent for the replacement of an existing poster board with an upgraded wall mounted digital advertisement with a 48-sheet display. The new advertisement would display static advertisement images at a frequency of once every 10 seconds, with no special effects or video elements to be shown.
6. The Council found that the digital display would comply with Policy BNE10 of the Medway Local Plan (MLP) adopted May 2003, insofar that the scale, size, design and materials would not be detrimental to the character and appearance of the area, subject to conditions. Following my site observations I would concur with the assessment of the Council on these matters, given the mixed-use nature of the surrounding area and the separation distance of the advertisement from the nearby residential properties.
7. The NPPG states that advertisements, whether they require express consent or not, are subject to standard conditions. If a Local Planning Authority decides to impose additional conditions, these must be supported by specific and relevant planning reasons¹. The NPPG specifically states that conditions should never be imposed because the Local Planning Authority wishes, as a matter of general policy, to prevent the operation of Class 14 of Part 1 of Schedule 3 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations).
8. Regarding luminance, the Council applied a non-standard condition that sought to restrict the luminance of the advert to 600 candela/sqm (cd/m^2) during the day and 300 cd/m^2 at night. The reason for this condition was cited as preventing impacts on visual amenity and highway safety. Table 4 of the Professional Lighting Guide 05 (PLG) "The Brightness of Illuminated Advertisements" sets out the maximum permitted recommended illuminated area for advertisement signs over 10m^2 is 300 cd/m^2 . However, the supporting text highlights that the 300 cd/m^2 value applies during the evening, not during the day. The PLG states that daytime luminance of digital signs should never exceed 5,000 cd/m^2 .
9. The advertisement would display static images no greater than 2500 cd/m^2 at a frequency of once every 10 seconds during the day, reducing this to 300 cd/m^2 during the evening. From the details before me, it has not been adequately explained by the Council why the digital advertisement should be restricted to 600 cd/m^2 during the day, given that the illumination levels sought by the appellant would be within the recommended levels set out in the PLG. Whilst the evening level has been maximised, the daytime level would be half of the recommended luminance as set out in the PLG for the daytime and thus would be appropriate in this regard.

¹ Paragraph: 034 Reference ID: 18b-034-20140306

10. The proposed illumination levels are clearly designed to catch the eye. However, based on the evidence presented to me, and given its context and positioning in respect to the busy thoroughfare of the A2, I see no reason why a maximum luminance level of 2500 cd/m², would harm amenity outside the hours of darkness.

Public safety

11. The NPPG² states that all advertisements are intended to attract attention but proposed advertisements at points where drivers need to take care are more likely to affect public safety. The site is located in a section of the A2 where there are warning signals, traffic islands and traffic lights with a speed limit of 30mph. Given the prevalence of the traffic calming measures and the proximity of the Chatham Fire Station, drivers are more likely to have a heightened sense of concentration on the road and be more vigilant when approaching the site from the west.
12. Whilst it is acknowledged that the appeal site is located close to Chatham Fire Station, the advertisement would be out of the eye-line of approaching drivers and would not restrict views of the other road warnings or signs. Furthermore, I have no substantive evidence that the bright illumination of the advert or the fluctuation of the display every 10 seconds would distract drivers and increase the risk of collision between vehicles, cyclists, and pedestrians. Consequently, although the advertisement would be visible at the junction with the Fire Station, it would not compromise public safety.
13. Regulation 3(1) of the Regulations states the power to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. I have had regard to MLP Policy BNE10 which seeks to ensure adverts do not harm the character and appearance of the land or buildings on which they are to be displayed or compromise road safety amongst other things. Consequently, I conclude that the proposal would not harm visual amenity or public safety and would not conflict with the above relevant Local Plan policy or the Framework in this regard.

Conclusion

14. For the reasons given above, I conclude that the appeal should succeed. I will grant a new express consent without the disputed condition but substituting it for the version set out above.

Robert Naylor

INSPECTOR

² Paragraph: 067 Reference ID: 18b-067-20140306