



Appeal Decision

Site visit made on 24 July 2024

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th August 2024

Appeal Ref: APP/V1260/Z/24/3344617

Land at 87 Coles Avenue, Hamworthy, Poole, BH15 4HJ

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against a refusal to grant express consent.
 - The appeal is made by Alight Media against the decision of BCP Council.
 - The application Ref is APP/24/00212/A.
 - The advertisement proposed is new single illuminated 48-sheet digital advertisement display.
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Decision

1. The appeal is allowed and express consent is granted for the display of the new single illuminated 48-sheet digital advertisement display on land at 87 Coles Avenue, Hamworthy, Poole, BH15 4HJ in accordance with the terms of the application, Ref APP/24/00212/A, dated 15 February 2024. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in Schedule 2 of the 2007 Regulations and the following additional conditions:
 - 1) The intensity of the illumination of the digital advertisement display permitted by this consent shall be no greater than 300 cd/m², and the minimum display time for each advertisement or image shall be 10 seconds.
 - 2) The digital advertisement display permitted by this consent shall not include any kind of special effects (including noise, smell, animation, flashing, scrolling, intermittent or video elements) before, during or after the display of any advertisement or image. The advertisements or images shall be static and the transition between two successive images shall not include any fading, swiping or animated transition methods.
 - 3) The digital advertisement display permitted by this consent shall not be illuminated between the hours of 11.00pm and 7.00am.

Preliminary Matters

2. 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 PP27 (Design) of the Poole Local Plan (November 2018) (PLP). This seeks a good standard of design in all new developments including extensions and alterations. Although it

largely relates, therefore, to new development, insofar as the policy seeks to generally protect amenity I have taken it into account, as that issue is material in this case.

3. The Council also refer to policy PP30 (Heritage Assets) of the PLP. The alleged heritage implications arise from the location of the appeal site to four nearby locally listed buildings, 118 & 120 and 128 & 130 Lake Road (LLB's) which are considered to be Non-Designated Heritage Assets (NDHA's). Policy PP30 requires new development to preserve or enhance the setting of LLB's. A similar approach is set out in paragraph 209 of the National Planning Policy Framework (December 2023) (Framework) which states that the effect of an application on the significance of a NDHA should be taken into account in determining that application. Paragraph 209 continues by stating that in weighing applications that directly or indirectly affect NDHA's a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Main Issue

4. The main issue is the effect of the proposed sign on amenity with particular regard to the appeal sites location in relation to the nearby LLB's.

Reasons

5. The appeal site forms a small part of the open tarmacked forecourt to 87 Coles Avenue (No.87), which is a single storey commercial unit trading as a hair and beauty salon, located at the junction of Coles Avenue with Lake Road. To the east is a two storey property with café and outdoor seating area on the ground floor and what appears to be residential accommodation above. A further parade of three two storey properties adjoins this to the east with a similar mixture of ground floor commercial uses with residential above.
6. To the north of the appeal site and on the opposite side of Coles Avenue, is a convenience store with residential accommodation above. To the north west, on Lake Road, are predominantly two storey semi-detached properties which include the four LLB's. The southern boundary of the appeal site is formed by a modest wire fence beyond which is mature landscaping and trees. The latter form part of the embankment to the elevated railway line that runs to the rear of the appeal site. As you head south on Lake Road and pass to the west of the appeal site, the road dips down under a railway bridge.
7. The proposed digital sign would be located hard up against the boundary with the railway embankment, orientated to face traffic approaching the appeal site from the north and north east. It would comprise a single sided panel with digitally illuminated display, whose images would be static and where the level of illumination would not exceed 300 cd/m².
8. Paragraph 141 of the 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 (updated July 2019) states that this usually means the effect on visual and aural amenity. The Council have raised an objection to the visual effect of the proposed sign.

9. Whilst there are residential properties to the north, north west and north east of the appeal site, some of these do not have direct views of the site or the proposed sign. In other cases the views are at an oblique angle or partly screened by boundary landscaping and fencing/walls. Where there are direct views, the residential properties in question are located a good distance from the proposed sign, and these views would be across a large road junction with extensive street lighting. As such, the proposed sign would not, in my view, affect the visual amenities of nearby residential occupiers.
10. I accept that the proposed digital display would result in a change to the appearance of this part of the streetscene. However, I am not convinced from the evidence before me or from my observations on site, that this change would have any adverse effect on the visual amenities of the area. The proposed sign is modest in terms of its height, width and length. It would not be in an elevated position and would be sited adjacent to existing commercial shops that benefit from their own signage. It would also be sited against the backdrop of the mature landscaping and trees on the railway line embankment and viewed in the context of the railway bridge with its large brick piers, safety railings and low key road signage. Consequently, I disagree with the Council and consider that the proposed digital display would not appear dominant or visually obtrusive and would, on the contrary, sit comfortably on the appeal site.
11. As I also observed on my site visit, the junction of Coles Avenue with Lake Road is busy, with traffic often backing up when traveling south on Lake Road due to the width restrictions under the railway bridge. In relation to the four LLB's these are located to the north of the appeal site, on the western side of Lake Road. Even so, there is a considerable distance separating the LLB's from the proposed sign, with the large junction of Coles Avenue with Lake Road accentuating the physical separation between the two. The proposed sign would not form part of the same streetscene or view of the LLB's, and it would not affect their setting. For these reasons, the proposed digital sign, with its appropriate level of illumination, static display and the ability for it to be turned off overnight, all of which can be controlled by conditions, would not result in any harm or loss to the significance of the LLB's or thus to these NDHA's.
12. Turning to clutter, paragraph 141 of the Framework states that the quality and character of an area can suffer when advertisements are poorly sited and designed. The proposal involves a well-designed digitally illuminated display that would be sited in an appropriate location. The design, scale and high quality digital images would not result, bearing in mind its mixed use context, in any harm to the character of the area. Paragraph 141 continues by referring to the cumulative impact of signage, but my attention has not been drawn to the presence of existing signage that would lead to any harm in this respect. There is currently no signage on the appeal site and existing signage in the area comprises standard fascia signs to the shops and low key traffic signs. For these reasons, the proposal would not result in any clutter or lead to any harmful cumulative impact.
13. Therefore, I find that the proposed illuminated digital advertisement display would not represent an incongruous or visually discordant feature and would not adversely affect the visual amenities of the surrounding area or be harmful to the setting of the nearby LLB's.

14. In reaching this finding, I have taken into account policies PP27 and PP30 of the PLP and paragraph 212 of the Framework insofar as they seek to generally protect amenity and the setting of heritage assets, and so are material in this case. Given that I have concluded that the proposal would not harm amenity, the proposal does not conflict with these policies.

Conditions

15. Both parties have put forward conditions, which include several non-standard conditions. I have considered these against the advice in the Framework and the PPG chapters on the 'Use of planning conditions' and 'Advertisements'.
16. Based on the consultation responses, the submitted evidence and my own observations on site, I agree that, on balance, there are relevant planning reasons for imposing non-standard conditions to control matters such as the level of illumination, static display, timing, format and transmission of images, and hours of illumination. I am satisfied that these conditions are necessary and reasonable in the interests of visual amenity and to reflect the details set out in the application. I have, however, amalgamated and reworded some of the suggested conditions. A condition requiring compliance with the submitted plans is not necessary as the decision grants express consent, and not planning permission. A plans conditions is meant to facilitate applications under section 73 for minor material amendments and so it is not relevant when granting express consent for the display of an advertisement.
17. I am not convinced that conditions requiring the submission and approval of a lighting plan, a post-performance test or maintenance in relation to highway safety, are required. 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 'Reasons' for these conditions is stated as being in the interests of amenity and highway safety, in accordance with policies PP27 and PP35 of the PLP. Even so, the Council provide no reference as to which part of these policies they consider relevant or would support the imposition of these conditions, both of which I interpret as principally seeking to control the design and layout of new build development.
18. Furthermore, there is no substantive evidence before me to justify the need for these additional controls. Some relate to matters adequately controlled by the standard and non-standard conditions that this express consent will be subject to. In addition, paragraph 141 of the Framework states that the advertisement consent process should be operated in way which is "*simple, efficient and effective*". For these reasons, I am not persuaded that there are specific or relevant planning reasons to support these conditions.

Conclusion

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

G Roberts

INSPECTOR