



Appeal Decision

Site visit made on 26 February 2025

by **Stephen Normington BSc, DipTP, MRICS, MRTPI, FIHE, FIQ**

an Inspector appointed by the Secretary of State

Decision date: 5 March 2025

Appeal Ref: APP/W4325/Z/24/3349691

Land at Chester Street, Birkenhead CH41 5DL

- 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 JCDecaux UK Limited against the decision of Wirral Metropolitan Borough Council.
 - The application Ref is ADV/23/01912.
 - The advertisement proposed is the removal of 3No. externally illuminated 48-sheet advertisements (Approx. 6m x 3m) and 1No. externally illuminated 96-sheet (Approx. 12m x 3m) advertisement, followed by the erection of 1No. internally illuminated D200 advertisement (Approx. 6m x 3m).
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Decision

1. The appeal is allowed and express consent is granted for the removal of 3No. externally illuminated 48-sheet advertisements (Approx. 6m x 3m) and 1No. externally illuminated 96-sheet (Approx. 12m x 3m) advertisement, followed by the erection of 1No. internally illuminated D200 advertisement (Approx. 6m x 3m) at Land at Chester Street, Birkenhead, CH41 5DL in accordance with the terms of the application, ADV/23/01912. 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 levels of the illuminance shall not exceed 600cd/m² during daylight hours or exceed 300cd/m² during twilight and night hours; as defined by official lighting up times. The display shall be fitted with a light sensor which shall constantly monitor ambient light conditions and adjust brightness accordingly.
 - 2) The screen display 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.
 - 3) The advertisement display shall not change more frequently than every 10 seconds and the rate of change should be instantaneous.
 - 4) The illumination of the advertisement shall not at any time be intermittent.
 - 5) The panel shall not display any advertisements between the hours of 24.00hrs and 06.00hrs.
 - 6) Prior to the first use of the advertisement display hereby permitted, the existing advertisement displays that are proposed for removal shall be removed from the site and the exposed fence made good.

Preliminary matters

2. The Council's Officer Report refers to the emerging Wirral Local Plan 2021 – 2037, which has been submitted for examination. Although the report identifies three policies in the emerging plan that are considered relevant to this proposal (WS 7, RA 4 and WP 2.1), I have no evidence of the content of these policies nor any explanation of how they may be relevant to the appeal proposal. The Council's reason for the refusal of consent for the display of the advertisement did not make any reference to policies contained within the emerging plan. Furthermore, neither party has made any reference to these emerging policies as part of the evidence submitted in this appeal. In the absence of any evidence regarding the relevance of the emerging policies, I have attached limited weight to them in my determination of this appeal.

Main Issue

3. The Council has not raised an objection to the proposal in public safety terms, and I have little reason to disagree with this view.
4. Therefore, the main issue is the effect on amenity, including the character, appearance and significance of the Hamilton Square Conservation Area and the setting of nearby listed buildings.

Reasons

5. The appeal site is located at the junction of Chester Street and Market Street and comprises an established advertisement site currently occupied by three externally illuminated, static display panels, measuring approximately 6.4m wide and 3.4m high, and one externally illuminated static display panel measuring approximately 12.8m by 3.4m. All of the panels are elevated above the carriageway by approximately 2.5m.
6. The site is located within the Hamilton Square Conservation Area. A number of Grade II Listed Buildings on Market Street and Chester Street are located to the south and west of the appeal site. Chester Street is a relatively highly trafficked road and the current displays are particularly visible to vehicles travelling north on the road. The surrounding area has a mixed character both in design and land use terms with the immediate area comprising predominantly commercial and residential buildings.
7. The proposal would involve the removal of all of the existing static displays and the installation of one internally illuminated advertisement display. The visible display would measure approximately 6.2m by 3.1m and would be positioned relatively close to the gable wall of No. 82 Chester Street. It would therefore occupy a similar position to the current 12.8m by 3.4m panel.
8. The Hamilton Square Conservation Area (CA) is a distinct urban area in Birkenhead, located to the northeast of the town centre. The CA is centred on Hamilton Square and its surrounding streets and also includes an area leading northeast towards the Woodside Ferry Terminal, which lies on the Mersey waterfront.
9. The distinctive character of the CA is created by a number of different elements which primarily comprise the grid layout, scale and general uniformity of design and elevational treatment within Hamilton Square itself together with the formal

arrangement of the central garden area. Market Street forms part of the complementary 'visual envelope' to the main Hamilton Square with Chester Street forming part of the environment relating to the various phases of transport development focused on the ferry, road and rail links.

10. The proposed advertisement would be smaller than the one it replaces in the vicinity of the gable wall of No. 82. Moreover, the removal of the existing four advertisements would represent a significant visual improvement by the removal of the prominence and clutter that they currently create. The proposal would have no greater impact on the longer distance views of the Town Hall when compared to the existing advertisements. In this regard, it would significantly reduce the visual clutter in the current foreground views of the Town Hall Tower. Furthermore, owing to its size, the proposed advertisement would be viewed in the context of the gable of No. 82 rather than as a competing feature to the longer distance views of the Town Hall.
11. The proposed advertisement would have no visual connectivity with Hamilton Square itself and the removal of the current advertisements would represent a noticeable visual improvement to the character and appearance of the 'visual envelope' to Hamilton Square and the setting of the nearby Listed Buildings.
12. Whilst the proposal would have internal illumination and the ability to near instantaneously change the advert, the negative effects of such would be modest as they could be minimised through the use of conditions. Coupled with the benefit of removing the other existing advertisements altogether, the overall effect would preserve the character and appearance of the CA and render a neutral impact upon the setting of the Listed Buildings. The proposal would therefore have an acceptable effect on amenity.
13. Taking the above factors into account, the advertisement would not have an adverse visual impact, including in relation to the historic character and appearance of both the setting of the Listed Buildings and the wider CA. Consequently, there would be no conflict with Policies CH01, CH1, CH2 and CH5 of the Wirral Unitary Development Plan 2000. These policies collectively seek to ensure the continued conservation and enhancement of the Borough's distinct, heritage assets and historic environment.

Conditions

14. In addition to the 5 standard conditions set out in the Regulations, both the Council and the Appellant have suggested a number of additional conditions. I have reviewed these in accordance with the tests set out in the Planning Practice Guidance and I have attached conditions that are consistent in their necessity and form.
15. The additional suggested conditions relate to the proposed level of illumination, and the nature of the advertisements. To prevent unacceptable impacts upon the visual amenity, the historic environment and distraction to road users through the restriction of luminance at night, I consider it reasonable and necessary to impose conditions broadly along the lines proposed by the parties. This includes the prevention of special effects, minimising the frequency of and the transition time between adverts, providing an upper luminance limit during daylight and non-daylight hours and the provision of a sensor to adapt to changing light levels.

16. I have modified the Council's suggested condition relating to the removal of the existing advertisements. This condition is also necessary to prevent unacceptable impacts upon visual amenity and the historic environment.
17. Although the Council did not suggest any restrictions in the time that advertisements should be displayed, the Appellant has suggested a condition providing for advertisements not to be displayed between the hours of 24.00 and 06.00. This condition would eliminate any unacceptable visual and highway safety impacts during these hours. Consequently, I consider that the suggested condition is reasonable and enforceable.

Conclusion

18. For the reasons given above, I conclude that the display of the proposed advertisement would not be detrimental to the interests of amenity or public safety. The appeal should, therefore, be allowed and express consent granted subject to the conditions set out.

Stephen Normington

INSPECTOR

