
Appeal Reference:	2023/A0095
Appeal by:	Mr Gary Higgins
Appeal against:	The refusal of consent.
Proposed Development:	Retention of 1 No. Digital advertising panel
Location:	Cascum Link adjacent to KFC, The Boulevard, Banbridge
Planning Authority:	Armagh City, Banbridge and Craigavon Borough Council
Application Reference:	LA08/2023/2310/A
Procedure:	Written representations and Commissioner's site visit on 31 st May 2024
Decision by:	Commissioner Jacqueline McParland, dated 6 th June 2024.

Decision

1. The appeal is allowed. Consent to display an advertisement is granted, subject to the conditions set out below.

Reasons

2. The main issues in this appeal are whether the proposal would:
 - respect the amenity when considered in the context of the general characteristics of the locality; and
 - prejudice public safety.
3. In accordance with Part 3 of the Planning (Control of Advertisements) Regulations (Northern Ireland) 2015, regulatory powers for advertisements such as the appeal proposal that requires express consent, must be exercised only in the interests of amenity and public safety, taking into account the provisions of the local development plan, so far as they are material, and any other relevant factors. As the Council have yet to adopt a new plan strategy, the Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) operates as the extant local development plan for the area in which the appeal site is located. In the BNMAP the site is located on unzoned land within the settlement limit of Banbridge town, directly adjacent to land zoned for mixed use. As the plan contains no specific policies for advertisements, I turn to consider the other material considerations in this appeal.
4. Regional policy of relevance is found in the Strategic Planning Policy Statement 'Planning for Sustainable Development' (SPPS). The SPPS sets out the transitional arrangements that will operate until such times as the local Council adopts a Plan Strategy for the whole of the Council area. No PS has been adopted for this council area. In accordance with the transitional arrangements,

Planning Policy Statement 17 'Control of Outdoor Advertisements' (PPS17) is relevant as there is no conflict or change in policy direction between the provisions of the SPPS and it insofar as it relates to this appeal. PPS17 therefore remains the appropriate policy context for assessing this advertising display.

5. Policy AD1 of PPS17 entitled "Amenity and Public Safety" states that consent will be given for the display of an advertisement where it respects amenity, when assessed in the context of the general characteristics of the locality and does not prejudice public safety. The Council have raised concerns to the proposal in relation to both criteria.
6. Paragraph 4.9 of the Justification and Amplification (J&A) of Policy AD 1 states that advertisements by their very nature are designed to attract attention of passers-by and therefore, have the potential to impact on public safety. Paragraph 4.11 of the J&A also outlines nine main types of advertisements which are likely to pose a threat to public safety. The Council's objection to the digital panel is that the advertisement itself, or the exact location for its display is likely to be so distracting or confusing that it creates a hazard to or endangers people in the vicinity, specifically drivers on the A1 Road.
7. The appeal proposal comprises of the retention of a digital advertising panel 6.32 metres in length and 3.32 metres in height. It is attached to 3 metre high support poles, giving it an overall height of 6.32 metres from ground level. It is sited on land approximately 6 metres higher and perpendicular to the A1 dual carriageway to face oncoming traffic. It is located adjacent to the slip road off the A1 (where the speed limit is 60 miles per hour (mph)) into the Boulevard complex, a retail outlet.
8. The Department of Infrastructure (DFI) Roads' consultation response dated 5th July 2023 stated that it is opposed to the appeal development due to the potential for danger to be caused by drivers being distracted by the sign at a location where clear and full focus is required due to the traffic speeds and movements associated with the adjacent slip lane off the A1. DFI Roads also stated that the accident history of the A1 has caused concern for some time and such distractions in this high-speed environment are to be avoided. I note that no detail relating to the accident history at this junction was provided to substantiate DFI Roads' or the Council's concerns in this regard.
9. In assessing the impact on public safety, paragraph 4.12 of the J&A identifies the vital consideration to be whether the advertisement itself, or the exact location for its display is likely to be so distracting or confusing that it creates a hazard to or endangers people in the vicinity. The panel is 11 metres away from the slip lane and 23.5 metres from the A1 Road. On approach on the A1 there is advanced traffic signage of the approaching slip road around 280 metres before the slip road begins. From this viewpoint the digital panel, located behind this traffic signage, is visible but not legible. As such, the panel would not distract from the traffic signage. It is around this area on the A1 when a driver would have to make the decision to slow down and position themselves in the left-hand lane to exit the A1 on the slip road. Those continuing to travel south would continue to use the left- and right-hand lanes on the A1 and would not be reducing speed or carrying out manoeuvres. The digital panel only becomes legible around 150 metres prior to the beginning of the slip road. At this point the digital panel is sufficiently separated from the traffic signage and is not in the natural sight line of those traffic signs.

10. Whilst the panel is illuminated, the appellant has advised that the digital panel has controlled brightness to satisfy illumination guidelines. Both parties are agreed that the panel currently has this technology fitted. I drove past the site on the A1 in daytime hours and at night. At neither time did I find the illumination distracting. A planning condition could ensure that the current illumination controls are retained so that the digital panel has a satisfactory brightness when viewed at night or during a particularly dull day. I note that there is no confirmation by either party whether moving images are proposed. The appellant stated that any limit on motion would be assessed on a site-by-site basis. In my judgement, the use of moving images or text can be problematic because such movement has the potential to distract drivers at any time of day or night, as motion would attract attention more so than a static display would. Therefore, it would be necessary to restrict the panel to advertise static images only, with no more than 6 changes per minute in line with prevailing guidelines. Planning conditions could be attached if consent was forthcoming to ensure that the digital panel will satisfy this. Drivers approaching the junction already negotiate a transient succession of shop signage along this section of the A1 and, in my opinion, the presence of this illuminated sign perpendicular to the road at this location does not unduly distract users of the A1. The appeal sign would not prejudice public safety. Accordingly, the Council's has not sustained its first reason for refusal.
11. Paragraph 4.7 of the J&A of Policy AD 1 sets out 7 sub-criteria for assessing the impact of an advertisement on amenity. The Council have raised concerns in relation to sub-criteria (c) and (d).
12. Sub-criterion (c) requires an assessment of the cumulative effect of the proposal when read together with other advertisements on the building or in the surrounding area and whether the proposal would result in clutter. Within the immediate area of the appeal site there are numerous signs associated with businesses located at the Boulevard retail park. These signs are typical of shop signage. There are also several pole mounted totum signs within the Boulevard complex. One of these signs is a partially digital sign, typical of a petrol filling station advertising fuel prices, whilst the others are non-digital signs advertising shops and restaurants present within the Boulevard complex. These signs are located over a 275-metre distance. When travelling along the A1 in a southern direction there are transient and long-range views of the appeal proposal in conjunction with around four totum pole signs and around six shop signs. However, over short-range views of around 150 metres on approach to the appeal development on the A1 the appeal development is seen in conjunction with only one narrow totum pole sign and the shop signage of two other businesses. Therefore, even with its elevated siting and its luminosity, given the character of the area as a retail park, and the distance between the existing signs in the wider area, I do not consider that the cumulative effect of the proposal in the surrounding area would result in clutter.
13. Sub-criterion (d) requires an assessment of the size, scale, dominance and siting of the advertisement in relation to the scale and characteristics of the surrounding area. The Council consider that the advertising panel does not respect the character of the surrounding area by reason of its luminosity. As discussed above the digital panel could be conditioned to have its brightness controlled. I am satisfied that a planning condition could ensure that the screen would satisfy the standards of the Institute of Lighting Professionals Guidance. On this basis the

screen would not cause light pollution or impact the amenity of the area. As such the Council's second reason for refusal is not sustained.

14. For the reasons given above the appeal sign satisfies Policy AD1 of PPS17 and the related provisions of the SPPS. The Council has not sustained its reasons for refusal and the appeal shall succeed.

Conditions

- (1) The digital advertising screen shall display only static images and shall not contain sequential displays, moving images or features designed to give the appearance of movement.
- (2) A maximum of 6 static images shall be displayed in any one-minute period.
- (3) The luminescence of the advertising screen shall be controlled by light sensors which will automatically adjust screen brightness for ambient light levels in order to avoid glare at night and facilitate legibility during daytime. The screen shall comply with the Institution of Lighting Professionals' guidance PLG05 'The Brightness of Illuminated Advertisements'.

COMMISSIONER JACQUELINE MCPARLAND

List of Documents

Planning Authority: -	“A1” Statement of Case
Appellant: -	“A1” Statement of Case “A2” Rebuttal