



An  
Bord  
Pleanála

## Inspector's Report

### ABP-315763-23

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<b>Development</b>	Replace internally illuminated advertising display with a digital advertising display.
<b>Location</b>	7 Geraldine Terrace, Milltown Road, Dublin 6
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	WEB1357/22
<b>Applicant(s)</b>	JCDecaux Ireland Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	First Party vs Condition
<b>Appellant(s)</b>	JCDecaux Ireland Limited
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	18/06/2023
<b>Inspector</b>	Adrian Ormsby

## 1.0 Site Location and Description

- 1.1. The subject property is located on the corner of Milltown Road and Strand Terrace a cul de sac in Milltown. The application site has a stated area of 52.8 sq.m and includes an existing two storey end of terrace house. The site boundary is abutted to the southern side gable of the house in which an existing advertising structure is attached and included.
- 1.2. The bottom of the existing advertising structure is located at a low height and hangs over a narrow public footpath which forms part of the public road. The sign faces southwards towards pedestrian and vehicular traffic travelling northwards along the R117 regional road.
- 1.3. The site is located opposite a small pay and display car park with a bottle bank type facility. The River Dodder flows north easterly c. 50m east of the site.

## 2.0 Proposed Development

- 2.1. The proposed development comprises of-
  - replacement of the existing south-facing Première internally illuminated 6.4m wide x 3.4m high advertising display, existing depth 0.61m
  - erection of a 6.4m wide x 3.3m high digital advertising display, proposed depth of 0.427m
  - to be positioned at 2.4m above ground level; and all associated site works and services
  - A Road Safety Audit (RSA) is submitted.
  - A letter of consent from the owner of No. 7 Geraldine Terrace is submitted.
- 2.2. The Planning Authority sought Further Information (FI) on the 14/06/22 in relation to the following-
  - Incorrect submission of permitted drawing
  - Proposals to ensure a 2.4m height clearance
  - Proposals to discourage use of path by pedestrians and for parking, reduction in depth, an updated Road Safety Audit (RSA) may be required.

2.3. A Response to the FI (RFI) dated the 22/07/22 provided-

- Correct permitted drawing
- Revised proposal with a height clearance of 2.240m, depth at 427mm, off set from front elevation of house by c.500mm
- Box planters proposed with steel guard at ground level to discourage pedestrian use of area and car parking. Amendments are minor and same road safety issues arise as before. A reaudit is not required.

2.4. The Planning Authority sought Clarification of FI (CFI) on the 19/08/22 in relation to the following-

- Reduction in size of the sign to ensure height clearance above carriageway,
- measures to prevent pedestrians walking below and parking the sign to be agreed, a 400mm set back from the kerb required for any interventions.
- Any impact to public carriageway should be auto tracked and an updated RSA submitted.
- Maintenance proposals to taking in charge standards required.

2.5. A response to the CFI (RCFI) was submitted and dated 07/12/22. It detailed-

- The dimensions now proposed amended to 6.28m x 3.4m This increases the clear height below the sign to 2.34m.
- Proposed bollards (instead of plantars) prevent pedestrians walking under the display.
- A widened footpath to 900mm while maintaining road width of 5.5m
- Auto track shows this requires removing 2 existing rocks on the opposite side of the road and relocating parking signage.
- The setback on the kerb is now 600mm.
- A data and ESB meter cabinet are now proposed beneath the sign.
- A revised Road safety audit is submitted.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. The Planning Authority decided to grant permission on the 17/01/23, subject to nine conditions, generally of a standard nature and including-

- C2. *The development shall be revised as follows:*

*a) The digital advertising display panel shall be reduced to a maximum of 4.1 x 3.1 metres, located at least 2.4 metres above ground level and centrally positioned on the gable wall of the host building.*

*Development shall not commence until revised plans, drawings and particulars showing the above amendments have been submitted to, and agreed in writing by the Planning Authority, and such works shall be fully implemented prior to the occupation of the buildings.*

*Reason: In the interests of orderly development and visual amenity*

- C3. *The Digital Signage shall comply with the following requirements:*

*a) The maximum luminance of the advertisement display between dusk and dawn shall not exceed 300 candelas per square metre.*

*b) Only static images without movement shall be permitted, i.e. no animation, flashing, three dimensional effects, noise, smoke or full motion video shall be permitted without a prior grant of planning permission.*

*c) No more than one advertisement shall be displayed every ten seconds.*

*d) The mechanism of changing the digital advertising display shall be by means of a fade transition of the display at intervals of 10 seconds or more.*

*Reason: To ensure a satisfactory standard of development.*

## 4.0 Planning Authority Reports

### 4.1. Planning Reports

The planning reports generally reflect the final decision of the Planning Authority. The following summarised points are noted-

- The works are subject to a Road Opening Licence
- The DCC Development Plan 2016-22 has expired (by RCFI stage) and replaced with the Dublin City Development Plan 2022-28.
- The site is located in Zone 6 of the Outdoor Signage Strategy as outlined in Appendix 17. This states Ninety-six sheet and forty-eight sheet advertising panels will no longer be permitted and any new applications for advertising structures must relate to the scale of the buildings and streets in which they are to be located.
- The proposal is approximately the same scale as a forty-eight sheet advertising panel.
- It is not considered that the proposed advertising structure would accord with the provisions of the Outdoor Signage Strategy in terms of scale.
- It is not considered that the proposal relates to the scale of the host building.
- The advertising structure should therefore be reduced by way of condition.

### 4.2. Other Technical Reports

- Drainage Division-
  - 12/05/22, - No objections
  - 'No change' noted and highlighted on same report for AI and CAI submissions.
- Transportation Planning Division
  - 10/06/22- Additional Information required
  - 17/08/22- Clarification required

- 11/01/23- No objection subject to conditions

#### 4.3. Prescribed Bodies

- None

#### 4.4. Third Party Observations

- None

### 5.0 Planning History

- WEB1003/19- Permission Granted on the 05/04/19 for the replacement of the existing 1 no. 48 sheet illuminated static advertising display and replacement with 1 no. 48 sheet (6.4m wide x 3.36m high) Première internally illuminated advertising display and to permanently decommission and remove 1 no. 48 sheet advertising display at 13-a-b Conyngham Road, Dublin 8, including all associated site works and services.

### 6.0 Policy Context

#### 6.1. Dublin City Development Plan 2022-28

- 6.1.1. The application was originally lodged when the provisions of the Dublin City Development Plan 2016-2022 were operative.
- 6.1.2. The Dublin City Development Plan 2022-2028 was adopted at a Special Council meeting on the 2nd of November 2022. The plan came into effect on the 14th of December 2022.
- 6.1.3. Permission for this development were granted under the provisions of the 2022-28 CDP.
- 6.1.4. Volume 1 Chapter 7 of the CDP is titled '*The City Centre, Urban Villages and Retail*'. Section 7.5.9 is titled '*Outdoor Advertising Strategy*' and details a strategy has been developed for commercial advertising in the public domain (Appendix 17) which

forms the basis of a practical policy to be applied to all proposals for outdoor advertising-

- Policy CCUV45 Advertising Structures states-

*To consider appropriately designed and located advertising structures primarily with reference to the zoning objectives and permitted advertising uses and of the outdoor advertising strategy (Appendix 17). In all such cases, the structures must be of high-quality design and materials, and must not obstruct or endanger road users or pedestrians, nor impede free pedestrian movement and accessibility of the footpath or roadway.*

6.1.5. Volume 1 Chapter 14 of the CDP deals with Landuse Zoning.

- The site is located on the gable wall of an existing house which is zoned Z1 Sustainable Residential Neighbourhoods. The zoning objective is *“To protect, provide and improve residential amenities”*.
- Advertisement and advertising structures are not identified as Z1 ‘Permissible Uses’ or ‘Open for Consideration Uses’.
- Although the structure is to be attached to an existing house it is clear from the contents of DCC reports that it overhangs the public road to which no zoning applies.

6.1.6. Volume 2 Appendix 17 ‘Advertising and Signage Strategy’.

Section 1.0 is titled ‘Advertising and Signage’ and details the City Council has developed a policy based on geographical zones providing a range of controls and policies for each zone ranging from the prohibition of outdoor advertising in the most sensitive areas to more general controls in less sensitive areas where certain types of advertising will be considered.

- Figure 1- ‘Zones of Advertising Control’ shows the site within Zone 6 predominantly residential in character where outdoor advertising would be visually inappropriate.
- The following is also stated-
  - *The preferred location for outdoor advertising panels in the city is on public thoroughfares, distributor roads and radial routes contained*

*within Zones 2, 3 and 5 as indicated in Figure 1 showing Zones of Advertising Control.*

- *Ninety-six sheet and forty-eight sheet advertising panels will no longer be permitted and any new applications for advertising structures must relate to the scale of the buildings and streets in which they are to be located. The use of light box structures are also not supported.*

6.1.7. Section 2.0 deals with 'Digital Signage' and states-

- *The use of digital signage is becoming more prevalent in the city and is beginning to replace the more traditional paper advertising signs. In this regard, the design and location of digital signage will be controlled as to prevent any adverse impact to road users and pedestrians.*

*Applications for digital signage should comply with the following design criteria:*

- *Set out the details for the material, finishes and colours of the signage structure.*
- *The maximum luminance of the advertisement display between dusk and dawn shall not exceed 300 candelas per square metre.*
- *Only static images without movement shall be permitted, i.e. no animation, flashing, three dimensional effects, noise, smoke or full motion video shall be permitted without a prior grant of planning permission.*
- *No more than one advertisement shall be displayed every ten seconds.*
- *The mechanism of changing the digital advertising display shall be by means of a fade transition of the display at intervals of 10 seconds or more.*

## 6.2. Natural Heritage Designations

- Not relevant



## 7.0 The Appeal

### 7.1. Grounds of Appeal

A first-party appeal has been lodged against condition no. 2. The grounds of appeal can be summarised as follows-

- Condition 2 requires material alterations to the proposed display which render the development unfeasible.
- The application seeks a technological upgrade of the existing and permitted advertising display that is in situ i.e. a digital display within a smaller overall structure.
- The units are not manufactured to bespoke requirements but come in a limited range of scales.
- The proposed unit is a different word to old fashioned '96 sheet' paper displays with downlighters above.
- Conditions altering display sizes on an ad-hoc basis undermine improvements in the displays and presentation to the public realm.
- The revisions by condition were not sought through FI or CFI and are contrary to due process and a fair or equitable planning assessment.
- The revisions at CFI stage ensure a clear height below the sign of 2.34m and therefore the proposal is compliant with the goal of 2.4m above ground level.
- The Council has fundamentally misinterpreted the Outdoor Signage Strategy as regard to restrictions of the old format 48 and 96 panel displays. This specifically refers to 'panels' and does not mean 'the same size as 48 sheet panels'.
- Where policy states '48 sheet advertising panel will no longer be permitted' this must be taken literally as referring to the old format displays only.
- The proposal is not contrary to Appendix 17 of the CDP 2022-28 and is acceptable under policy CCUV45.

## 7.2. **Planning Authority Response**

- None

## 7.3. **Observations**

- None

## 8.0 **Assessment**

### 8.1. **Introduction**

- 8.1.1. This is a first-party appeal against Condition No. 2 attached to the Planning Authority's decision to grant permission. Having regard to the nature and scale of the proposed development and the content of condition no. 2, it is considered that the determination by the Board of the application, as if it had been made to it in the first instance would not be warranted. Therefore, the Board should determine the matters raised in the appeal only, in accordance with Section 139 of the Planning and Development Act 2000, as amended.

### 8.2. **Condition 2**

- 8.2.1. The Planning Authority have attached condition 2 to reduce the size of the proposed advertising signage to 4.1m x 3.1m and for it to be at least 2.4m above ground level. The reasoning for this is detailed as in the interests of orderly development and visual amenity.
- 8.2.2. The change is further justified in the planning report of the 17/01/23 in which reference is made to Appendix 17 of the newly adopted City Development Plan (CDP) which no longer permits ninety-six sheet and forty-eight sheet advertising panels. The planning report also considers the proposal does not relate to the scale of host building.
- 8.2.3. The Applicants challenges the Council interpretation of Appendix 17 and that the proposal, despite its size, is not a 48 sheet panel advertising structure and therefore should not be restricted by Appendix 17.
- 8.2.4. Policy CCUV45 Advertising Structures of the 2022-28 CDP states-

*To consider appropriately designed and located advertising structures primarily with reference to the zoning objectives and permitted advertising uses and of the outdoor advertising strategy (Appendix 17). In all such cases, the structures must be of high-quality design and materials, and must not obstruct or endanger road users or pedestrians, nor impede free pedestrian movement and accessibility of the footpath or roadway.*

- 8.2.5. The proposal is for signage that is attached to a residential property with Z1 residential zoning. The actual structure however, overhangs public property to which it appears no zoning and therefore no zoning objective applies.
- 8.2.6. The CFI proposal indicates works to the public path including installation of bollards and increasing the paths width to 1.7m. The Transportation Planning Division of the Council have indicated a clear height of 2.4m has not been achieved but the proposal is acceptable given the improvement over existing height and the structures set back from the extended kerb line. They have raised no concerns as regards obstructing, impeding or endangering road users or pedestrians of the footpath or roadway etc. They detail these works are subject to a road opening licence in any event.
- 8.2.7. I note the proposal is to replace existing permitted signage which is not subject to any restrictions e.g. temporary permission.
- 8.2.8. Appendix 17 of the CDP sets out the Councils Advertising and Signage Strategy. Section 1.0 clearly prohibits 'Ninety-six sheet and forty-eight sheet advertising panels'. However, I agree with the Applicants view that the proposed development is not for such 'panels' and a reduction in size on this basis is not warranted.
- 8.2.9. The CFI drawing 'JCD 001 PL200 N' shows the proposed structure off-set 0.5m from the front elevation and closer to the roof eaves than the existing signage. In my opinion this proposal relates more appropriately to the scale of the host building than the existing structure.
- 8.2.10. The development description clearly proposes a 'digital advertising display'. The application should also be considered against the provisions of Section 2.0 of Appendix 17. This sets out detailed design criteria which I note forms part of Condition 3 of the Councils decision. The Applicants have not appealed Condition 3 indicating their satisfaction to comply with same.

- 8.2.11. Section 2.0 does require digital signage to be controlled to prevent any adverse impact to road users and pedestrians. The development description also clearly proposes the signage will be 2.4m above ground level. The CFI cover letter details the revised proposal provides 2.34m clear height below the sign. Drawing 'JCD 001 PL200 N' submitted at CFI stage suggests the bottom of the structure will be 2.3m from the footpath with the display element 2.4m above.
- 8.2.12. While the proposed height and narrower depth of the structure represents a significant improvement over the existing structure in situ, in my view the proposed advertising structure should provide at least 2.4m clear height from the footpath and this should form part of an amended condition. I don't see any reason why this can't be facilitated but if there is a technical reason, provision should be allowed for the Council to apply discretion. From a visual perspective an increase of clear height by 0.1m will have minimal impact.
- 8.3. Having considered all of the above Condition 2 should be **amended** to permit the structure generally as proposed but for it to be located at least 2.4 metres above the footpath.

#### 8.4. **Appropriate Assessment**

- 8.4.1. Having regard to the nature and scale of the proposed development and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

### 9.0 **Recommendation**

- 9.1. Having inspected the site and reviewed the drawings and documents on file, I am satisfied that the determination by the Board of this application as if it had been made to it in the first instance would not be warranted. Accordingly, I consider that it would be appropriate to use the provisions of Section 139 of the 2000 Act, as amended. I recommend that Condition 2 should be **AMENDED** as follows-

2. The digital advertising display structure shall be located at least 2.4 metres above the footpath unless otherwise agreed with the Planning Authority.

Development shall not commence until revised plans, drawings and particulars showing the above amendment have been submitted to and agreed in writing by the Planning Authority.

Reason: In the interests of orderly development and public safety.

## 10.0 Reasons and Considerations

- 10.1. Having regard to the nature and scale of the proposed development, the established and permitted use of this gable elevation for advertising structures and Policy CCUV45 Advertising Structures of the Dublin City Development Plan 2022-2028, it is considered that the proposed development subject to the amendment as set out would, be in accordance with the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Adrian Ormsby  
Planning Inspector

18<sup>th</sup> of June 2023