

TORBAY COUNCIL

Application Site Address	50 Victoria Street, Paignton, TQ4 5EQ
Proposal	Installation of free standing advertising unit (FSU), containing back to back digital displays.
Application Number	P/2021/0410
Applicant	Clear Channel
Agent	n/a
Date Application Valid	22/05/20
Decision Due date	23/12/21
Extension of Time Date	N/a
Recommendation	Approval: Subject to planning conditions as outlined within the report, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing & Climate Emergency.
Reason for Referral to Planning Committee	The site is owned by the Council and an objection has been received.
Planning Case Officer	Sean Davies

Location Plan



Site Details

The site comprises an area of pavement outside of no. 50 Victoria Street, Paignton TQ4 5EQ. The site forms part of the built-up area. It is within the Paignton Town Centre Area and the Old Paignton Conservation Area. The site is outside a Primary Shopping Frontage. Victoria Street is a pedestrianised shopping street.

Description of Development

Installation of free-standing advertising unit (FSU), containing back to back digital displays.

Pre-Application Enquiry

The Local Planning Authority and Torbay Highways have provided informal positive feedback to the applicant at pre-application stage in relation to the current proposal.

Relevant Planning Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

Development Plan

- The Adopted Torbay Local Plan 2012-2030 (the "Local Plan")
- The Paignton Neighbourhood Plan

Material Considerations

- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Published standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report.

Relevant Planning History

None.

Summary of Representations

One objection has been received from a member of the public:

- “1. It would be out of proportion with other street signs and with pedestrians due to its large size, 9ft high by 4ft wide.*
- 2. It would block pedestrians' views looking up and down the street. An inviting vision in both directions, up and down the street, is so important for the movement of people and the success of commercial enterprises.*
- 3. It is detrimental to the view of Grade 2 listed Picture House cinema and the Paignton transport hub area, both visitor land marks.*

This advertising unit, which will give the council income, should be placed at other busy pedestrian areas where there may already be a blank wall and existing pedestrians views will not be obstructed. Good sites would be at the exits from the council car parks or at the transport hub, such as at the bus station or the railway station”.

Police: No objection

Torbay Highways: No objection.

Torbay Community Safety: No objection.

Paignton Neighbourhood Forum:

An objection has been received raising concerns as summarised below:

The proposal is contrary to Paignton Neighbourhood Plan Policy PNP1(c) as it would be out of keeping with its surroundings and would not respect an existing townscape vista. Also Policy PNP12(h) and the Paignton Town centre Masterplan as it would not de-clutter the town centre and make it easier to move around and would actually add to clutter and make it harder for pedestrians to move around.

The proposal is contrary to Torbay Local Plan Policy SDP1 Paignton as it will not improve the built environment or recapture the historic character of the old town, but would rather detract from the historic character of Victoria Street. The proposal is also contrary to Policy DE6 Advertisements as it would harm visual amenity and public safety, by creating an opportunity for miscreants to hide behind the mand carry out muggings and assaults.

The proposals fail a number of the ten criteria for good design set out in the National design Guide, namely: Context, Identity, Public Spaces, resources and Lifespan as well as paragraph 130 of the National Planning Policy Framework as the proposals represent poor design.

Concerns have also been raised that details of a contract with the Council referred to in information submitted with the application have not been provided and that certain arguments advanced by the applicant in favour of the proposals are not relevant.

(Note – officers understand that the Council has a contract with the applicant for the delivery of a number of FSUs across Torbay. The contract, and the details of the contract, are not planning issues that can be considered in determining the application. Officers have nevertheless referred Paignton Neighbourhood Forum to officials within the Council dealing with the contract so that they can see details publicly available).

A further objection was received from the Paignton Neighbourhood Forum in September that mock-up images supplied with the application were inaccurate and misleading. Officers raised this with the applicant and as a result new mock-ups were supplied. Officers also identified that the proposed layout plan submitted with the application was inaccurate. The applicant has now provided a revised accurate layout drawing which shows the proposed FSU slightly further away from the bike racks it would be sited near to. As the position of the proposed FSU has moved this necessarily means that the most recent mock-up images do not fully reflect the current proposed siting of the FSU. However, as a FSU unit further up Victoria Street has now been installed (see below), providing a nearby example of what the proposed FSU would look like, officers consider that the mock-ups provided are sufficient.

For the avoidance of doubt, officers do not consider that the proposed change in the location of the FSU is material or triggers the need for re-consultation).

Key Issues/Material Considerations

1. Principle of Development
2. Visual and aural amenity
3. Public safety

1. Principle of Development

The proposal seeks permission for Installation of free-standing advertising unit (FSU), containing back to back digital displays. There are no Local Plan policies indicating that the proposal is not acceptable in principle.

2. Visual and Aural Amenity

Policy DE6 (Advertising) of the Local Plan states that advertisements will not be permitted where they would harm visual or aural amenity.

(i) Visual amenity

An objection has been made by the Paignton Neighbourhood Forum and a member of the public, variously, that the proposals would be out of character with the surrounding area (PNP1(c)(ii)), would detract from an existing townscape vista looking up Victoria Street from the station (PNP1(c)(iii)) and would add to clutter in the Town Centre making it harder to get around contrary to Policy PNP12(h) and the Paignton Town Centre Masterplan. Also that the proposal would not improve the built environment or recapture the historic character of the old town (SDP1) and would harm the visual amenity of Victoria Street by providing a stark and unpleasant contrast to the setting of the Conservation Area, and would be detrimental to the view of the Grade II listed Picture House cinema and Paignton transport hub. Also, that the proposed FSU fails to meet certain characteristics of the National Design Guide (Context, Identity, Public Spaces, resources, Lifespan) and represents poor design within the meaning of paragraph 130 of the National Planning Policy Framework.

In forming a view about whether the proposals would harm visual or aural amenity officers have considered these points as well as Policy SS10 of the Torbay Local Plan (Conservation and the historic environment) and Policy DE1 (Design).

The proposal is for advertisement consent for a double-sided digital FSU. Information submitted with the application shows that it would be 2.64m high (the proposals initially submitted were for a slightly taller unit standing at 2.74m high), 1.34m wide, 30.5cm deep, and that each digital panel would be approximately 1.5sqm in area. The FSU housing would be black powder coated stainless steel. Displayed images would be static and would change no more frequently than every 10 seconds. The FSU would be operational from 05:00am to 02:00am and switched off in between. The digital displays would be backlit to a maximum brightness in darkness of 280 cd/sqm.

The applicant was granted planning permission for a similar (the FSU was 2.61m high but otherwise identical to the current proposal) double sided digital display FSU outside no. 26 Victoria Street (WH Smiths) under reference P/2020/0184 last year. No objections were received in relation to these proposals and so the application was determined using delegated powers. This unit has now been installed and provides an example of what the proposed unit subject to the current application would look like.

The applicant withdrew a number of other applications for FSUs around Torbay in 2020 in response to officer concerns. Officers have discussed the current proposal with the applicant

during pre-application discussions. The application under consideration in this report is one of six that the applicant has submitted in response to those discussions (the other five sites are in Torquay – four of these along Union Street and Fleet Street have now also been installed). It should be noted that the applicant has withdrawn application P/2021/0538, for a FSU outside no. 45 Victoria Street in response to concerns raised by officers that this would be too close to the FSU proposed on the opposite side of the road outside no. 50 (i.e the current application) and cumulatively would be visually intrusive (the site at no. 45 did not form part of pre-application discussions).

Conservation, the historic environment and listed buildings

Policy SS10 of the Local Plan states that development proposals will be assessed against the need to conserve and enhance conservation areas while allowing sympathetic development within them. Policy HE1 states that development proposals should have regard to the desirability of preserving the setting of any listed building.

The site is within the Old Paignton Conservation Area. All nearby buildings are identified as Key Buildings in the conservation area appraisal. The nearest listed building is the Grade II* Cinema building on the other side of the level crossing.

Officers do not consider that the proposals would detract from the setting of the Cinema listed building. Officers also consider that the proposals would amount to sympathetic development within the conservation area, given its commercial character at the location in question, and would make a small contribution to conserving and enhancing the conservation area by adding to a sense of vitality along what is a key shopping street.

The proposal is therefore considered to be in accordance with Policies SS10 and HE1.

Design

Paragraph 130 of the National Planning Policy Framework states that “*Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions*”. Paragraph 132 states that “*The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts*”. The National Design Guide sets out 10 characteristics of well designed places (Context, Identity, Built Form, Movement, Nature, Public Spaces, uses, Homes and Buildings, Resources and Lifespan. Policy SDP1 of the Local Plan states that “*Paignton will be rejuvenated through high quality mixed use development of key town centre ... sites. Improvement of the built environment will recapture the historic character of the old town*”. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy PNP1(c) of the Paignton Neighbourhood Plan states that “*development proposals should where possible and appropriate to the scale and size of the proposal: be in keeping with the surroundings respecting scale, design, height, density, landscaping, use and colour of local materials*” PNP(c)(ii) and “*respecting important landscape or townscape vistas*” (PNP1(c)(iii)). Policy PNP12 states that “*proposals supported where they will*” ... “*de-clutter the town centre to make it easier to move around*”. The Paignton Masterplan calls for the creation of a new Palace Square at the junction of Torquay Road and Palace Avenue and the de-cluttering of this area through removal of street furniture. The Masterplan sets out an aspiration to “*Support more use of the street*

surface for café seating, open air markets and themed events, festivals and similar attractions, whilst ensuring no loss of the existing street trees and seating capacity". Along the already pedestrianised part of Victoria Street.

Officers consider that the proposed FSU represents good design and would be appropriately sited close to an existing busy junction with an urban character. Officers have considered the characteristics of well designed places highlighted by the application (Context, Identity, Public Spaces, resources, Lifespan) but do not agree that the proposal is contrary to these. Officers consider that the proposals are likely to enhance the general street scene (Context), would be attractive and distinctive (Identity), would be safe, social and inclusive (Public Spaces) and would be efficient and resilient and made to last (Resources and Lifespan). It should be noted in this respect that a standard advertising condition could be used to ensure that the proposed FSU is maintained in a condition that does not impair the visual amenity of the site.

Officers consider that the proposed FSU would not be out of character with the existing street scene given the presence of existing street trees, benches, bollards, bins, bike racks and street lights in the vicinity.

Officers do not consider that the proposed FSU would make it more difficult to get around Victoria Street to the extent that the application should be refused. Torbay Highways remit includes ensuring that development proposals do not obstruct the pavement. Highways have been consulted on the application and raised no objection. Officers do not consider that the wording of Policy PNP12 can be read as suggesting that proposals for new street furniture along Victoria Street should be refused. Officers note the aspirations set out in the Paignton Masterplan for further use of the street for café seating and markets etc. and again do not feel that the proposed FSU would conflict or be out of character with such proposed uses. As noted above, the focus for decluttering Victoria Street in the Masterplan is at the junction of Torquay Road and Palace Avenue to create a new Palace Square.

Officers also do not consider that the proposed FSU would detract from the existing view up Victoria Street from the station given its modest width of 1.34m, or towards the Paignton transport hub or Picture House cinema.

Officers recognise that the proposals will not result in a "recapture of the historic character of the old town" but, equally, Policy SDP1 is a Strategic Policy setting out a broad aspiration for regenerating Paignton and officers do not consider that the wording of this policy precludes the proposal under consideration (i.e. the policy does not say that any proposals that do not lead to contribute to the recapture of the historic character of the old town should be refused).

The proposal is therefore considered to be in accordance with the National Planning Policy Framework and Policies SDP1, DE1, PNP1(c), PNP12 and the Paignton Masterplan.

Neighbour amenity

Policy DE3 of the Local Plan sets out that development should not unduly impact on the amenity of neighbouring uses and that this will be assessed in relation to the impact of criteria that includes visual intrusion and light pollution.

Officers have considered the proposed operation of the FSU i.e. static images changing lit to a maximum of 280 cd/sqm in darkness between 05:00am to 02:00am. Officers consider that

this would be unlikely to detract from the visual amenity of the area, either in terms of the street scene generally, or when viewed by neighbours i.e. local businesses and residents of any flats that may exist above these units.

Torbay Community Safety have been consulted on the proposals and have replied with no objections.

The proposal is therefore considered to be in accordance with Policy DE3.

(ii) Aural amenity

Policy DE3 of the Local Plan sets out that development should not unduly impact on the amenity of neighbouring uses and that this will be assessed in relation to the impact of criteria that includes the impact of noise.

A planning condition can be used to ensure the FSU is silent.

The proposal is therefore considered to be in accordance with Policy DE3.

Summary

The proposals are considered acceptable in relation to visual and aural amenity.

3. Public Safety

An objection has been made by Paignton Neighbourhood Forum that the proposed FSU would create a space for miscreants to hide behind and could lead to muggings or assaults.

Officers consider that the risk of this happening is very low. The Police have been consulted and have replied with no objections.

Torbay Highways were involved in the pre-application discussions described earlier in this report in respect of the site under consideration and also the five additional sites in Torquay and have not raised this issue as being a concern.

The proposed FSU has been positioned so as not to obstruct Victoria Street to pedestrians or reduce visibility for drivers along Hyde Road.

Torbay Highways have been consulted on the proposals and have replied with no objections. It should be noted that while the specification included with the proposals states that image change will be via "smooth fade" the applicant has since clarified that *"I am advised by our Digital Support team that a software change was made to our displays just prior to the application's submission, which now sees displays change in a more instantaneous way ..."*. The manner of screen change can be seen on a video clip of an FSU in operation that the applicant has supplied and which can be viewed on the Torbay website, or simply by observing the operation of the other approved FSU units installed further up Victoria Street and in Torquay Town Centre. Torbay Highways have confirmed that they have no objection to this change:

"Providing the images are static and no intermittent light sources, flashing lights, moving parts or features are shown, Highways would raise no objection".

The proposals are therefore considered to be acceptable in terms of public safety.

Conclusion

As the proposals have been assessed by officers as being acceptable in terms of visual and aural amenity and public safety the proposals are considered to be in accordance with policy DE6.

Local Finance Considerations

S106:

Not applicable.

CIL:

The CIL liability for this development is Nil.

EIA/HRA:

Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

HRA:

Not applicable.

Planning Balance

This report gives consideration to the issues raised in the objections received and concludes that these are not of sufficient weight to warrant the refusal of the application and as such it is concluded that the planning balance is in favour of supporting this proposal.

Proactive Working

In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved. The Council has concluded that this application is acceptable for planning approval.

Conclusions and Reasons for Decision

The proposal is: acceptable in principle and would not result in unacceptable harm to the Visual or aural amenity or public safety. The proposed development is therefore considered acceptable, having regard to the Development Plan, and all other material considerations.

Officer Recommendation

That planning permission is granted, subject to the conditions detailed below and subject also to no new material planning considerations being raised within the remaining consultation period. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning. Housing and Climate Emergency.

Conditions

1. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

2. No advertisement shall be sited or displayed so as to—
- (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
 - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
 - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

3. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

4. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

5. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

6. The intensity of the illumination of the sign shall not exceed 280 candela/m².

Reason: To safeguard the amenities and character of the area in accordance with Policies DE3 and D6 of the Adopted Torbay Local 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan.

7. The sign shall only display static images.

Reason: To safeguard the amenities and character of the area in accordance with Policies DE3 and D6 of the Adopted Torbay Local 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan.

8. The sequential advertisements shall not change more than once every 10 seconds.

Reason: To safeguard the amenities and character of the area in accordance with Policies DE3 and D6 of the Adopted Torbay Local 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan.

9. The sign shall only be operational between 05:00am and 02:00am (and shall be switched off between 02:00am and 05:00am).

Reason: To safeguard the amenities and character of the area in accordance with Policies DE3, D6 and SS10 of the Adopted Torbay Local 2012-2030.

10. The sign shall be silent.

Reason: To safeguard the amenities and character of the area in accordance with Policies DE3 and D6 of the Adopted Torbay Local 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan.

11. The housing of the Free Standing Digital Display Unit shall be black or dark grey or any other colour that has been agreed in writing with the Local Planning Authority.

Reason: To safeguard the amenities and character of the area in accordance with Policies DE3 and D6 of the Adopted Torbay Local 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan.

Development Plan Relevant Policies

SDP1 Paignton
SS10 Conservation and the historic environment
HE1 Listed buildings
DE1 Design
DE3 Development amenity
DE6 Advertisements
PNP1(c) Design Principles
PNP12 Getting Around