

Appeal Decision

Site visit made on 24 January 2017

by Paul Singleton BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10th February 2017

Appeal Ref: APP/A0665/Z/16/3163133

Land at grass verge adjacent to Kinsey Road at the entrance to the Cheshire Oaks Designer Outlet Village, Ellesmere Port, Cheshire CH65 9JY

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr Steve Renshaw against the decision of Cheshire West & Chester Council.
 - The application Ref 16/02602/ADV, dated 17 June 2016, was refused by notice dated 7 October 2016.
 - The advertisement proposed is digital LED display and associated logo box within freestanding architectural structure.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect on amenity and public safety.

Reasons

Amenity

3. Paragraph 67 of the National Planning Policy Framework (Framework) states that advertisements should be subject to control only in the interests of amenity and safety, taking account of cumulative impacts. The same paragraph advises that only those advertisements which would clearly have an appreciable impact on a building or their surroundings should be subject to control by detailed assessment. Regulation 3(2) of The Town and Country (Control of Advertisements) (England) Regulations 2007 states that the factors relevant to amenity include the general characteristics of the locality and the presence of any feature of historic, architectural or cultural or similar interest. With reference to Regulation (2) Paragraph 79 of the Planning Practice Guidance (PPG) advises that amenity is usually understood to mean the effect on visual and aural amenity in the immediate neighbourhood of the advertisement where residents or passers-by will be aware of it.
 4. The proposed advertisement would not be in close proximity to any building of architectural or historic interest but the Cheshire Oaks Outlet Village (Outlet Village) and the nearby retail and leisure developments fronting Kinsey Road have been designed to be a uniformly low rise development set within an extensive landscape setting. When approaching on Kinsey Road the low height
-

of the Outlet Village buildings and the very limited extent and low key nature of signage attached to the rear elevations of those buildings means that the large scale of the Outlet Village is not readily apparent. In this view the Sainsbury's store and car park are largely hidden behind boundary hedging and trees and the TGI Friday and KFC units have limited visual impact due to their pitched roofs, low ridge heights and landscape setting which includes a wide background of tall trees and vegetation.

5. The appeal proposal would introduce into this setting a large vertical structure which would be much taller than any of the buildings within the immediate vicinity of the site and taller than many of the trees that form the background in this view. The supporting framework would be a solid and bulky element which would be out of scale with the neighbouring buildings and would represent a harmful intrusion into the landscape setting of the existing development. The bespoke design of the supporting structure might render it more attractive than a more standard supporting framework but I consider that its bulky form and excessive scale would be discordant in the context of the existing buildings and landscape. The proposed digital display would also be out of keeping with the existing small scale and low key signage and advertisements within the locality.
6. The proposed advertisement would be screened from view from the nearest residential properties and there would be no adverse effect in this regard. However, the Outlet Village is a major shopping and leisure destination which the appellant's supporting statement describes as the most visited outlet centre in the UK. As the large majority of visitors are likely to use Kinsey Road as their route into the Outlet Village the adverse effect on the visual amenity and of this important route would be experienced by very large numbers of passers-by and would cause substantial harm to amenity as a result. In my judgement the harm to amenity would be further added to by the appearance of such a tall and incongruous structure centrally in the view of drivers and passengers of vehicles leaving the Outlet Village and joining the roundabout at the Sainsbury's access point.
7. The appellant draws a comparison with the 33 metres height of the Outlet Village sign located alongside the M53 motorway. However, that sign serves as the main signage for the Outlet Village as a whole and an associated planning obligation secures control of the display of individual signs to the rear elevations of the shops that back onto the motorway. I saw on my site visit that the Council and the operators of the Outlet Village have achieved a good degree of success in encouraging shared signage in a limited number of key locations and, thereby, preventing the proliferation of advertisements and signage that might otherwise have occurred. This strategy has also included signage for the adjacent Sainsbury's store. This approach has clearly helped to minimise the clutter of signage within this extensive retail and leisure development and to maintain the high quality of the external elevations and landscaping within the area.
8. Although the appellant suggests that the proposed advertisement could be used on a shared basis there is no evidence of any agreement with the operators of the TGI Friday and KFC outlets to remove or reduce their existing signage. I also note that an application has been made to the Council for express consent for signage to the front of the new Costa Coffee outlet. Costa Coffee supports the proposal but it is clear from its consultation response that

the company sees the proposed digital display as a means of advertising its outlets in the wider area rather than as replacement for individual signage for the new outlet on the leisure park.

9. The proposal would, therefore, be likely to add to rather than reduce the proliferation of signage in this area. It would also be out of keeping with the existing signage within the leisure park which is of much smaller scale and which generally makes use of individual LED lettering rather than a fully illuminated panel with a rotating display as proposed in the appeal scheme.

Public safety

10. Although there are some totem and other signs on the section of Kinsey Road between the traffic signals and the roundabout these are small in number, are of much smaller scale than that proposed and generally are non-illuminated. The form and scale of the proposed advertisement would be very different from anything that drivers will have seen or experienced when approaching the Outlet Village from the motorway junction or along the A5117 and could, therefore, be considered to be unusual and unexpected in this local context. Although there was a temporary, variable message sign in the central reserve at the time that JMP consultants visited the site it was not there at the time of my visit and the Council's evidence is that such signage is used only occasionally when there is an identified need for additional traffic information.
11. Regular visitors to the Outlet Village or to Sainsbury's will know where they want to go. However, this will not be the case for the many thousands of visitors who do not make frequent trips or who are visiting for the first time. When approaching from the motorway, vehicles are already in two lanes before they turn into Kinsey Road and, because of the traffic signals at this junction, it is common for a large number of vehicles to make this manoeuvre in convoy. The directional sign informing drivers of the roundabout ahead comes into view only when one has completed that turning manoeuvre. There is a relatively short approach between that sign and the roundabout. However, that directional sign does not inform drivers of the change from two lanes into three at the entrance to the roundabout.
12. I note the forward visibility calculations set out in the JMP report but do not agree that this would enable drivers to assimilate the contents of the display without surprise since they are likely to be concentrating on completing the turning manoeuvre into Kinsey Road. The images in that report also illustrate the prominence of the proposed advertisement compared to the existing directional sign and suggest that it would have the potential to divert driver's attention away from that critical directional signage. The JMP report suggests that it is reasonable to assume that vehicles changing lanes on the approach to the roundabout will undertake these manoeuvres as they are passing the proposed sign. However, my observations during the relatively short duration of my site visit were that a significant number of drivers make last minute decisions as to where they need to be and seek to change lanes in much closer proximity to the roundabout.
13. Based on these observations and the Council's evidence I consider that the relatively short section of Kinsey Road between the traffic signals and roundabout is a location where there is a need for drivers to be focused on the lane changing that they need to undertake. A large digital advertisement with a regularly changing display would be likely to distract many drivers at a point

where their concentration on the road and surrounding traffic is critical to their safety and the safety of other road users.

14. My observations on my site visit were that many drivers leaving the leisure park wish to cross into the outside lane on Kinsey Road so that they can go all the way around the roundabout and return to the signal junction with the A5117. Some drivers do this as one manoeuvre but others join the inside lane of Kinsey Road at a slow speed and then try to move across. These movements add to the complexity of the various lane changing manoeuvres within this short section of road and further increase the need for drivers approaching from the signal junction to be focused on the movements of other vehicles as they approach the roundabout.
15. Having regard to the above considerations I find that the proposed location of the advertisement would be likely to cause a distraction to motorists using this part of Kinsey Road and would pose an unacceptable risk to public safety, notwithstanding that there is a low accident record on Kinsey Road.
16. I have noted the 'comparable sites' assessment set out in the JMP report but do not accept that these are comparable to the appeal proposal. The examples are in very different urban locations which are likely to have very different traffic flows and speeds compared to those on Kinsey Road and are in a context where drivers are likely to be used to and expecting large directional signage, advertisement hoardings and other displays.
17. PPG notes that all advertisements are intended to attract attention but proposed advertisements at points where drivers need to take more care are more likely to affect public safety. In my judgement the section of Kinsey Road within the proposed advertisement would be sited in such a location. I consider that the proposal would be likely to confuse the view of many drivers and to distract drivers because of the very large scale and unusual nature and appearance of the proposed advertisement within the context of the local road network.

Other Matters

18. The appellant has suggested possible planning conditions to control the intensity of illumination and the sequential change of the image displayed but I agree with the Council that such restrictions would not be sufficient to overcome the harm that would be caused to amenity and public safety.
19. The appellant has also proposed that the advertisement could provide opportunities for an element of non-commercial displays, for example to advertise local businesses. Insufficient information has been made available to demonstrate how this might work in practice or that it would bring any significant economic or other benefits. Accordingly, this outline proposal would not be sufficient to outweigh the harm that I have identified.
20. Policy ENV6 of the Cheshire West and Chester Local Plan seeks to promote high quality sustainable design which reflects local character and is sympathetic to landscape assets. I have taken its provisions into account in reaching my conclusions with regard to the effect of the proposal on amenity.

Conclusions

21. For the reasons set out above I conclude that the proposed advertisement would cause unacceptable harm to amenity and public safety and that the appeal should be dismissed.

Paul Singleton

INSPECTOR