

Appeal Decision

Site visit made on 19 June 2017

by P Eggleton Bsc(Hons) MRTPI

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

Decision date: 04/07/17

Appeal Ref: APP/P4415/Z/17/3174023

58 Clough Street, Rotherham S61 1RJ

- 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 Insite Poster Properties against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2017/0117, dated 17 January 2017, was refused by notice dated 27 February 2017.
 - The advertisement proposed is the replacement of an existing 48-sheet advertising display with a 48-sheet digital LED advertising display.
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Decision

1. The appeal is allowed and express consent for the replacement of the existing 48-sheet advertising display with a 48-sheet digital LED advertising display as applied for is granted. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the following additional conditions:
 - 1) No special visual effects of any kind shall be permitted during the time that any message is displayed. The displayed image shall not include animated, flashing, scrolling, intermittent or video elements. No visual effects shall accompany the transition between successive messages and the change shall be instantaneous (0.1 seconds or less). The replacement image shall not incorporate any fading, swiping or other animated transition. The display shall not include the sequencing of messages relating to the same product. The minimum time between successive displayed images shall be ten seconds and the display shall include a mechanism to freeze the image in the event of a malfunction.
 - 2) The intensity of the illuminance of the advertisement shall be no greater than 200Cdm² during the hours of darkness.

Main Issue

2. The main issue is the effect on public safety.

Reasons

3. The proposal would result in the replacement of the existing externally illuminated, six metres by three metres, advertisement display with a unit of the same size and in the same position but including light emitting diode technology (LED). The structure would be deeper in profile but this would not materially alter its appearance. The Regulations, the National Planning Policy
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Framework and the Planning Practice Guidance require that decisions are made only in the interests of amenity and public safety.

4. The Council have not raised concerns with regard to the appearance of the replacement display. Its concern relates only to highway safety. The evidence of the Council is limited to the comments made by the Highway Authority. This does not indicate that the existing sign has resulted in increased safety concerns and no accident data has been provided.
5. The Highway Authority state that the proposed sign would be located some 50 metres from an existing signal controlled pedestrian crossing of the busy A629 where drivers approaching along the 40 mph road need to exercise an above average degree of care and attention. Furthermore, the display will be almost parallel to the highway and not easily assimilated by approaching drivers, particularly those approaching from the east who may be further distracted as the display changes.
6. Reference is made to Planning Practice Guidance which sets out the main types of advertisement which are more likely to affect public safety on the roads. It advises that all advertisements are intended to attract attention but those at points where drivers need to take more care, are more likely to affect public safety. For example, at junctions, roundabouts, pedestrian crossings, on the approach to a low bridge or level crossing or other places where local conditions present traffic hazards.
7. It goes on to provide advice with regard to the main types of advertisement which may cause danger to road users. Those of most relevance are externally or internally illuminated signs (incorporating either flashing or static lights) including those utilising LED technology where the means of illumination is directly visible from any part of the road; those that are subject to frequent changes of the display; and those which incorporate moving or apparently moving elements in their display, or successive individual advertisements which do not display the whole message.
8. The conditions suggested by the appellant would limit the brightness of the display; prevent the display changing more than once every ten seconds and would require that the change be instantaneous. They would not permit interactive messages or special effects.
9. The road in the immediate vicinity is a dual carriageway. It has a restricted speed and is entirely straight. It has wide pavements and in the vicinity of the advert, it has pedestrian railings on the near side of the carriageway and within the central reservation. Although the road is busy, it would appear to offer no complexities for drivers using it. The exception to this is the pedestrian crossing.
10. The railings have been designed to ensure that, as far as is practical, pedestrians would be channelled to use the crossing facility. The visibility of the lights is uninterrupted from a significant distance in both directions. Although the guidance refers to pedestrian crossings, there appears to be little evidence to suggest that this section of road includes local conditions that present traffic hazards. The pedestrian crossing is the only feature that requires particular attention and this is clearly visible within this long straight section of road. There is no evidence to suggest that there is a need to exercise an above average degree of care and attention as suggested by the Highway Authority.

11. The conditions put forward by the appellant would result in an advert that, to a large extent, would be of similar character to the existing illuminated display. The lack of moving images or special effects would ensure that the difference related primarily to the change of images. As this would be restricted to a maximum of once every ten seconds, I am not persuaded that this would distract drivers to the point that they would be unaware of breaking traffic, the changing of the lights associated with the crossing or the movements of pedestrians. The different presentation of the advert would have minimal impact on driving conditions in an area of road that has few challenges for its users.
12. Reference has been made to the angle of the display but this would not be altered and no concerns have been put forward with regard to existing conditions along this road. I am not persuaded that this proposal would alter significantly the existing driving conditions or materially add to highway or pedestrian safety concerns. Given this conclusion and as the proposal would not result in harm with regard to amenity, I allow the appeal.
13. The Regulations impose five standard conditions. I have added further conditions that include the additional requirements referred to above and have been suggested by the appellant as they relate specifically to LED displays and are necessary to ensure that safety is maintained.

Peter Eggleton

INSPECTOR