
Appeal Decision

Site visit made on 2 October 2018

by T A Wheeler BSc (Hons) T&RP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2018

Appeal Ref: APP/X4725/Z/18/3205903
Land at Ings Road, Wakefield WF1 5QJ

- 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 Wildstone Estates Limited against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref 18/00489/ADV, dated 28 February 2018, was refused by notice dated 24 May 2018.
 - The proposal is: single sided, free standing, digital 48 sheet advertisement and associated logo box.
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Decision

1. The appeal is allowed and express consent for the single sided, free standing, digital 48-sheet digital advertisement and associated logo box, subject to the five standard conditions set out in the Regulations and the following additional conditions:
 - 1) Prior to the first use of the approved 48-sheet digital advertisement the existing 2 signs shall be removed. The fencing shall be replaced as shown on approved plan Rev A 10906/PP/04.
 - 2) The advertisement hereby approved shall operate at an illumination level no greater than 150cd/m² during the hours of darkness.
 - 3) The advertisement hereby approved shall include static images only. The interval between successive images shall be 1.0 seconds or less and the complete screen shall change. There shall be no visual effects between successive images and the display shall include a mechanism to freeze the screen in the event of a malfunction. Each image shall be displayed for at least 10 seconds. Message sequencing or interactive messages shall not be used.

Application for costs

2. An application for costs was made by Wildstone Estates Limited against City of Wakefield Metropolitan District Council. This application is the subject of a separate Decision.

Main Issue

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

Reasons

4. The appeal site lies adjacent to a parking area and service road at the B&M Home Store retail premises at Ings Road, Wakefield. A railway line runs to the rear of the site, at higher level, before crossing the road over a bridge. At present the site is occupied by two 48-sheet advertisement hoardings. At the time of my visit the panels were not illuminated. The proposed digital advertisement (and existing hoardings) would face toward Ings Road (part of the A638) and its junction with Grove Street. There are traffic lights on Ings Road adjacent to the appeal site, part of an arrangement of junctions managing the flows of traffic on the A638/Ings Road, Grove Street and the intersection with the A61/Kirkgate to the east. The roads are subject to a 30mph speed limit. The railway bridge is a 'low bridge'. Pedestrian movement between Grove Street and the south side of Ings Road is provided via a light controlled crossing and central island containing 3 trees.
5. The proposed digital advertisement (the proposed display) would be of similar size to one of the 48 sheet hoardings presently on site (6m in width, 3m height and 0.35m depth) and would be supported at a height of 1.5m above ground. The supporting structure would be constructed of powder coated steel. It would replace the existing hoarding nearest to the railway bridge. Timber fencing to the rear of the removed existing hoarding would be made good. There would also be a smaller logo sign below the main advert.
6. The Council is concerned that the proposed display would be detrimental to public safety by distracting drivers on Ings Road as they approach the signalised junction and bridge, and therefore conflict with Policy D14 of the Wakefield Local Development Framework, Development Policies Document April 2009.
7. The Council does not produce any specific evidence to support its reason for refusal, for example reference to accident records for the sections of road from which the display would be visible. However, it refers to the relevant paragraphs of Planning Practice Guidance¹ which set out what type of locations are more likely to affect public safety on roads, including points where drivers need to take more care such as junctions and the approaches to low bridges. The PPG sets out the main types of advertisement which may cause danger to road users in a list of sub-paragraphs (a) – (h). The Council considers sub-paragraphs (b), (d) and (e) to be of relevance to the proposal.
8. The appellant has produced a highway safety report to accompany the grounds for appeal. The report considers the relationship of the proposal to the surrounding roads, typical traffic flows and the relevant accident data. It makes detailed assessments of whether the proposed display would cause undue driver distraction to the detriment of highway safety. It also provides some background to the issues involved in such proposals, including the Transport for London document Guidance for Digital Roadside Advertising and Proposed Best Practice 2013 (the TFL Guidance). The report gives examples of other cases in Manchester, Liverpool and London which it says are comparable to the appeal site.

¹ Paragraph:066 Reference ID:18b-066-20140306 Revision date:06 03 2014 and Paragraph: 068 Reference ID:18b-068-20140306

9. The proposed display would face towards traffic approaching the site in an eastbound direction along Ings Road, and exiting left from Grove Street onto Ings Road. It would be noticeable to drivers but given that they would be approaching the site through traffic light controlled junctions, or in the case of Grove Street at a give-way junction, the display would be unlikely to be unduly distracting to drivers. In the case of traffic travelling on the westbound A638/Ings Road, drivers passing through the traffic lights would get a fleeting glance of the display. Static traffic queuing at the lights would allow some drivers close to the lights the opportunity to assimilate the advertisement.
10. The other section of road from which the display would be visible is the south west facing approach road from the A61/Kirkgate. Traffic on this section of road can proceed either to the traffic light controlled junction and then onward along Ings Road in a westbound direction, or divert in a south east direction via a feeder lane onto the eastbound A638. Traffic proceeding westbound onto Ings Road would get a fleeting view of the advertisement but would be unlikely to be unduly distracted. The feeder lane meets with the eastbound A638 at a give-way junction. There is some potential for distraction at this point, although drivers will be concentrating on the approaching eastbound traffic to identify a safe opportunity to exit. I note the presence of the trees on the traffic island which would partly screen the proposed display, although these are deciduous so during the winter months would only filter views.
11. All the sections of road described are subject to 30 mph speed restrictions and accident records do not support a conclusion that the junction arrangements are prone to accidents. The two recorded accidents in the vicinity of the appeal site were not as a result of drivers misjudging their approach to the junctions due to driver distraction. There is no evidence to support the view that the existing display of hoardings has contributed in any way to accidents due to driver distraction.
12. In the case of the above junctions and traffic movements through them, there would be opportunities for drivers to assimilate the content of the proposed display, however this of itself this would not demonstrably increase the risk of accidents given the layout of the junctions and traffic movements.
13. A further factor is the presence of the low bridge over the A638. The bridge has a height of 4.7m from the carriageway to bridge deck, according to the sign which alerts drivers approaching the bridge in an eastbound direction along Ings Road and on the bridge structure. The green coloured sign is located close to the Halfords MOT testing centre, and states that the bridge is 300 yards (274m) from the sign.
14. There is no dispute that between the Council and the appellant that the bridge should be described as a low bridge. Given the height of 4.7m, the bridge is not low enough to prevent the passage of double decker buses or most articulated lorries, but some high sided vehicles will not be able to pass underneath the bridge.
15. I note that Network Rail, in its response to the application, have not raised an objection to the proposal on grounds that there may be an increased risk of vehicle collision with the bridge.

16. In order for the proposed display to cause a significant risk of collision with a high sided vehicle, a driver proceeding along Ings Road would have passed the green sign advising of the height restriction. Assuming he or she had missed this, they would then have proceeded towards the bridge for the distance of approximately 270m, over which the bridge is in full view, and not realised that they were approaching bridge of restricted height. They would become fully aware of the presence of the proposed display towards the latter part of their journey towards the bridge. At this point, were they to be interested in the advertisement content and look towards it, they would also be looking more or less towards the bridge itself. The proposed display would therefore not of itself be a distracting feature likely to increase the risk of collision with the bridge.
17. I have also considered the possibility that the driver of such a vehicle could be approaching the bridge via the approach road from the A61/Kirkgate. This seems a less likely scenario than the Ings Road approach due to the arrangement of junctions. In a similar way to the situation with other drivers at the give way junction, the driver is likely to be looking westbound for approaching traffic in order to find a safe opportunity to exit. They would have approached the give way junction with the mass of the bridge before them. It is therefore unlikely that at this moment the proposed display would be such a distracting feature that it would be a contributory factor to a collision with the bridge.
18. In making my assessment of the proposal, I have balanced the potential for the proposed single display to cause undue distraction to drivers against the potential which exists currently from the two existing hoardings on the site. However this is not a decisive factor in my decision, which must be based on the merits of the display proposed in the appeal.
19. The appellant has drawn my attention to the Transport for London guidance. I note that this states that digital advertising should be no more or less acceptable than traditional forms of advertising, and that static digital advertising is likely to be acceptable at existing advertising sites. It is my view that in some circumstances such advertising may have a greater propensity to distract drivers than conventional hoardings, due to the intensity of illumination and the changing content of the display. The changeover rate between advertisements, the speed of transition and the prevention of moving images can be used as factors to mitigate the potential for undue driver distraction, although these may not always be sufficient in themselves to overcome public safety concerns.
20. In the case of the appeal site it is proposed to control the level of illumination to 150cd/m² during the hours of darkness, limit the display time to not less than 10 seconds per advert, the time between each advertisement not to exceed 1 second and excluding any moving images. I agree with these measures and have made these matters subject to condition. In the interest of minimising the potential for driver distraction I have also imposed a requirement that in the event of malfunction, the screen should freeze, and interactive or sequenced messages should not be shown.
21. I have also attached a condition which requires that the existing displays are removed prior to the first use of the proposed digital display and the fencing

installed as shown on the application drawings, in the interests on both public safety and amenity.

22. I therefore conclude the appeal proposals would not cause unacceptable effects in terms of public safety. Although the Framework is clear that advertisements should only be subject to control in the interests of amenity and public safety² I also find that the proposal would comply with Policy D14 of the Development Plan.

Other Matters

23. In its response to the application for advertisement consent, Network Rail has drawn attention to a number of matters which it wishes to be attached to any decision. These are not matters which should be covered by planning conditions, and the appellant will be aware of them.

Conclusion

13. For the reasons given above, the appeal is allowed.

Tim Wheeler

INSPECTOR

² National Planning Policy Framework July 2018: paragraph 132