
Appeal Decision

Site visit made on 3 December 2019

by Matthew Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th December 2019

Appeal Ref: APP/V4630/Z/19/3237010
42 High Street, Wednesbury WS10 8SD

- 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 Richard Page (Insite Poster Properties Ltd) against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 19/0744, dated 28 May 2019, was refused by notice dated 13 August 2019.
 - The advertisement proposed is described as 'replacement of an existing 48-sheet advertisement display with an illuminated 48-sheet digital advertisement display.'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For completeness, I have taken the appellant's name from the appeal form as opposed to the application form.
3. The Regulations¹ make it clear that advertisements should be subject to control only in the interests of amenity and public safety, taking into account cumulative impacts. I have determined the appeal on this basis.

Main Issues

4. The main issues are the effect of the proposed advertisement on the amenity of the area and on public safety.

Reasons

Amenity

5. The proposed illuminated display would measure approximately 6m x 3m, similar in width and height to an existing non-illuminated advertisement which, like the proposal, occupies the gable wall of a detached property. Unlike the existing advertisement, the proposal would be internally illuminated², not exceeding 300cd/m² at any time during the night. It would have a slightly greater depth and projection from the wall of the building than the existing advertisement.

¹ The Town and Country Planning (Control of Advertisement) (England) Regulations 2007

² In accordance with The Institute of Lighting Engineers: The Brightness of Illuminated Advertisements, Professional Lighting Guide 05, 2014

6. High Street is a wide road, faced by an assortment of buildings which differ in height and design, some of which front the road, with others being slightly set back behind low-level vegetation. Despite the presence of several commercial uses, including the takeaway use within the building against which the proposed advertisement would be attached, this stretch of High Street retains a predominantly residential character.
7. Whilst I appreciate that the road is relatively busy, the illumination and regular changing images associated with the advertisement display would appear overtly commercial, at odds with the more discreet appearance of the existing advertisement and residential character of the street. Even though the illumination of the display would be significantly reduced at night, and the number of street lights I saw on my site visit suggests that the street is relatively well lit at night, there were no other comparable illuminated advertisements visible in the area. Having regard to the context and the nature of the proposal, I find that the display would be conspicuous and intrusive in the street.
8. I have had regard to the Council's concerns regarding the proximity of nearby dwellings, but their habitable windows would be angled away from the advertisement, and I see no reason why it would unacceptably impact on the living conditions for occupiers of any nearby property. However, that does not detract from the unacceptable impact to the visual amenity of the area I have identified.
9. For the foregoing reasons I conclude that the development would have a harmful effect on the amenity of the area. Moreover, I have taken into account Policies GP2, ENV32, ENV36 and ENV37 of the Walsall Unitary Development Plan 2005, in so far as they are material, in accordance with the Regulations. I find conflict with these Policies which in general seek to ensure that proposals are not unacceptably prominent in the street scene having regard to local character.

Public safety

10. The proposed advertisement would be contained within the 'frame' of the traffic signals as viewed by drivers approaching along High Street from the east. However, it would be located on a building which is approximately 30m away, and, having driven along this stretch of road during the early afternoon on a weekday, and with the benefit of the existing non-illuminated advertisement as a reference point, there appeared to be sufficient distance between the traffic signals and the appeal site so that the signals would be clearly legible for approaching vehicles in the event that the illuminated advertisement was present.
11. Even if I was to assume that the illuminated advertisement was to display a colour scheme similar to the traffic signal lighting, the straightness and width of High Street offers a relatively unimpeded view along the road and, to my mind, drivers approaching the signals would have a clear sense of horizontal perspective, with the traffic signals appearing brightly in the foreground, and the clearly legible advertisement appearing some distance behind, attached to a building, and not visible against the skyline.
12. Whilst the illuminated advertisement would be close to the junction of High Street and High Ridge Close, it would be positioned on a gable wall which

would be above the height of most vehicles. Furthermore, the priority would lie with vehicles travelling along High Street and, even if a vehicle was to unexpectedly emerge from High Ridge Close and turn right onto High Street, the width and openness of High Street would offer drivers travelling west a clear panorama of their surroundings and, whilst the advertisement would be clearly present, I see no reason why it would unacceptably obstruct or confuse a driver's view of an emerging vehicle.

13. In reaching my decision I have had regard to the Planning Practice Guidance³. However, as a result of the aforementioned, I find that the proposed advertisement would not prejudice public safety. Therefore, it would not conflict with paragraph 109 of the National Planning Policy Framework which requires development to be resisted if it would have an unacceptable impact on highway safety. However, this does not negate the harm to visual amenity I have identified.
14. I have considered the conditions suggested by the appellant to secure controls over the display of images. However, these would not overcome the harm I have identified as they would not address the overall prominence of the advertisement resulting from the digital display, nor would they suitably address the effect of the constant digital illumination or changing images which would contribute to that harm. I do not consider therefore that these conditions, or others, would be sufficient to mitigate the harm to amenity which I have identified.

Conclusion

15. Whilst I find no unacceptable harm to public safety, the development would unacceptably harm the visual amenity of the area. Therefore, for the reasons given, the appeal is dismissed.

Matthew Woodward

INSPECTOR

³ Planning Practice Guidance Paragraph: 068 Reference ID: 18b-068-20140306