



Appeal Decision

Site visit made on 20 July 2021

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th August 2021

Appeal Ref: APP/A4710/Z/20/3246327

Travellers Rest, Advertising Right, 99 Huddersfield Road, Elland HX5 9AA

- 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 Clear Channel UK against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 19/10023/ADV, dated 11 October 2019, was refused by notice dated 13 December 2019.
 - The advertisement proposed is upgrade of existing 48 sheet advert to support digital poster.
 - This decision supersedes that issued on 12 May 2020. That decision on the appeal was quashed by order of the High Court.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the proposal refers to an existing 48 sheet advert, and this is depicted on the submitted plans and other evidence including photographs. However, this advert was not in place at the time of my visit.
3. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. Both main parties have had the opportunity to comment on any relevant implications for the appeal.

Main Issue

4. The main issue is the effect of the proposal on the amenity of nearby residents.

Reasons

5. The appeal site is located on the edge of the town centre, and is part of an area containing a mixture of uses, including residential properties as well as a supermarket and other business premises. It is located adjacent to Huddersfield Road which was relatively busy at the time of my visit.
6. The proposed digital display would replace a 48 sheet billboard previously located on the gable wall of a public house. Although there are some minor differences in the arrangement of the previous and proposed advertisements, the proposal would be in a similar position within the streetscape.

7. The proposed digital poster would face onto a small car park with a dwelling located on the boundary. There are two dormer windows facing onto the car park, which the evidence suggests serve bedrooms. The windows are located in close proximity to the advertising site, and although they would be set at an angle to the advertisement, the proposal would be readily apparent in the outlook from the windows.
8. The maximum brightness of the advertisement would be within the guidance of the Institute of Lighting Professionals. However, even on the basis of compliance with that guidance and potential controls over the nature of the images displayed, it is appropriate to assess the constraints of the site and the environment in which it is located.
9. Due to its proximity and scale, the appeal proposal would be an intrusive and dominant feature in views from the nearby bedroom windows, even allowing for the angle of view. This would particularly be the case at night, where the extent of illumination would be especially apparent. Whilst the level of illumination could be controlled, this would not mitigate for the introduction of a large, illuminated advertisement on a site which previously contained a non-illuminated billboard. The regular change in images would also draw the eye and be an unduly distracting feature for residents.
10. Due to the nature of the area, there are other sources of illumination, including advertisements, streetlights and vehicles. However, even within that context, the proposal would be an unacceptably obtrusive feature in views from the nearby dwelling due to the proximity and scale of the advertisement.
11. Although bedrooms may primarily be used for sleeping, they also fulfil other functions including relaxation and studying. It is therefore reasonable for occupants to expect a suitable outlook, even during the hours of darkness. I do not consider that it is appropriate to rely on residents drawing their curtains to address amenity issues. Moreover, due to the nature of the proposed advertisement and its relationship with the nearby dwelling, I do not consider that conditions controlling matters such as the nature of the images displayed, the frequency of changes and illuminance would suitably mitigate the harmful effect on amenity.
12. No objections to the proposal were received from third parties. However, on its Questionnaire, the Council specifies that it did not notify people about the application or the appeal. In any event, a lack of objection does not lead me to a different conclusion based on what I have seen and read.
13. I have had regard to the benefits referred to by the appellants, including CO2 emissions, revenue, maintenance and waste. However, the benefits arising from a single display would not be sufficient to outweigh the significant harm to amenity. The sign could also be used to display public art and messages beneficial to the community, but there is no certainty that this would occur and in any event this would not mitigate the harm to amenity arising from the nature and location of the proposed display.
14. I conclude that, due to its siting and design, the proposed advertisement would have a significant adverse effect on the amenity of residents of a nearby dwelling. Consequently, the proposal would conflict with paragraph 136 of the Framework which advises that the quality of places can suffer when advertisements are poorly sited and designed. However, the Regulations

require that decisions are made only in the interests of amenity and public safety, as appropriate to each case. Therefore, although I have taken the Framework into account, it has not been a decisive consideration in my determination of the appeal.

15. I am mindful that my conclusions differ from those of the previous Inspector. However, the previous Inspector did not visit the site due to Covid-19 travel restrictions, and made his decision taking account of evidence including online mapping resources, general familiarity with the site and photographic evidence. In comparison, I was able to visit the site and I consider that this has given me a fuller appreciation of the relationship between the proposal and nearby properties as a basis for reaching my decision.
16. For the reasons given above, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR