
Appeal Decision

Site Visit made on 12 August 2021

by Gareth Wildgoose BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 September 2021

Appeal Ref: APP/V2004/Z/21/3274467

741 Hesse Road, Kingston Upon Hull HU4 6PJ

- 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 Alight Media against the decision of Kingston-Upon-Hull City Council.
 - The application Ref 21/00153/ADV, dated 2 February 2021, was refused by notice dated 26 April 2021.
 - The advertisement proposed is 'replacement of a previously removed illuminated 48-sheet advertisement display with an illuminated 48-sheet (6m x 3m) digital advertisement display'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the advertisement provided by the application form has been amended in subsequent documents. It is clear from the evidence before me and from my site visit that a 48-sheet advertisement display had been previously removed. I have, therefore, necessarily amended the description given in the appeal form to remove the word 'existing'. The appellant has suggested that a replacement illuminated advertisement display could benefit from deemed consent. However, an application for express consent was submitted to the Council for the proposal before me, the appeal has been made on that basis and I proceed to determine it accordingly.
3. The revised National Planning Policy Framework (the Framework) was published on 20 July 2021. Policies within the Framework are material considerations which should be taken into account for the purposes of decision-making from the date of its publication. The parties have had the opportunity to comment on any implications of the revised Framework.
4. The Regulations, the Framework and Planning Practice Guidance (PPG) all make it clear that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts. The Council have drawn my attention to Policy 20 of the Hull Local Plan 2016 to 2032 (LP), adopted November 2017, and the Advertisement Design Guidance Supplementary Planning Document 8 (SPD), adopted January 2019, which it considers are relevant to the appeal. I have taken the policy and guidance into account as material considerations, only in so far as they relate to amenity and public safety.

Main Issues

5. The main issues are the effect on amenity, including the character and appearance of the area, and on public safety.

Reasons

6. The advertisement is proposed to be displayed on the west-facing side elevation of the two-storey building which is located on a corner plot at the junction of Hessle Road (A1166) with Dorset Street. The building is currently in use as a shop at ground floor level with residential accommodation above and in a two-storey rear outrigger. A shopfront at ground floor level facing Hessle Road wraps around part of the side elevation facing onto Dorset Street. The rear outrigger has a building line further from Dorset Street than the gable end where the advertisement is proposed to be displayed. A palisade fence adjoins the gable end and subdivides a small yard fronting an entrance to the rear outrigger and its associated amenity area beyond.
7. The immediate surroundings of the proposed advertisement display, therefore, are more closely related to the predominantly commercial character associated with the Hessle Road (Gipsyville) Local Centre of which the building forms part, prior to the evident transition to the residential character of rows of two-storey terraced houses further along Dorset Street. As a result, the advertisement display would be viewed in a largely commercial context along with signage associated with nearby businesses. The existing shopfronts include fascia and window signs, some of which are internally or externally illuminated, with freestanding signs and large poster-hoardings also visible along Hessle Road.
8. The PPG suggests that larger poster-hoardings in a commercial area of a major city (where there are large buildings and main highways) would be permitted where the advertisement would not adversely affect the visual amenity of the neighbourhood of the site. In that regard, the advertisement is proposed to be displayed in a position where it would be visible in a commercial setting and from a main highway. However, it would be in an elevated position above ground floor level on only a modest sized building and would subsume most of the side gable end at first floor level. Consequently, the size and position of the advertisement display would result in a prominent and dominant feature. Furthermore, the introduction of a digital design and LED illumination with use of intermittently changing images would draw attention to its overbearing presence with a resultant incompatible and harmful visual effect.
9. The luminance of the digital display could be controlled by condition relative to ambient light levels which would prevent light pollution in the local centre where there is an abundance of street lighting and some existing illuminated signage. Furthermore, the method of image transition could be specified with the potential to prohibit animation, special effects, flashing, scrolling, three-dimensional images, intermittent or video elements. Nonetheless, the unique form of digital display with LED illumination in the immediate context would draw attention to its presence amongst a range of other illuminated and non-illuminated signage of different size, types and colours along and close to Hessle Road with a resultant perception of visual clutter. This would be particularly evident in periods of darkness or dull weather conditions.
10. A previous externally illuminated advertisement of a similar scale was an established feature of the street scene having been in place for a number of

years in a similar position. However, it was notably different than the proposed LED illuminated digital design with intermittent changing of images. Consequently, even if there were to be a fallback position that would allow replacement of the previous display it is not a precedent that justifies the harm that would arise from the proposal.

11. It follows from all of the above, that the proposal would be an intrusive and incompatible feature within the street scene when approaching and entering Dorset Street from Hessle Road which would be harmful to the visual amenity of the area. The presence of trees, street lighting and buildings alongside Hessle Road in the foreground and background of more distant views from the west beyond a nearby roundabout, would reduce the conspicuousness of the advertisement from those perspectives. However, those features would not mitigate the harmful visual effect when approaching in closer proximity.
12. In reaching the above findings, I observed that the surrounding area contains similarly sized advertisements in comparable first floor positions on gable ends of buildings, including close to the junctions of Hessle Road with Gloucester Street and Devon Street. There are also several other large poster-boards in the surrounding area, including large externally illuminated advertisements close to the junction with Sunningdale Road on the opposite side of Hessle Road and a non-illuminated display at ground floor level of the gable end of Hampshire Street. In addition, there is an externally illuminated poster-board at first floor level on the gable end of Wiltshire Road in a prominent position facing the westbound carriageway of Hessle Road with other signs close by. However, the circumstances which led to those advertisement displays are not before me and I observed that they are different to the proposal in terms of either position, type of LED illumination or relationship to their surroundings. In any case, to my mind, the existing advertisement displays should not be seen as setting a precedent for the proposal before me given that they demonstrate the harmful visual clutter that can arise from a grouping of a range of different advertisements in close proximity.
13. LED illuminated digital advertisement displays are an increasingly common feature elsewhere in the country, but such matters do not override the necessity to assess a proposal on its individual merits based on its specific locational circumstances. The advertisement proposal is not within a Conservation Area, or the setting of listed buildings or other heritage assets, but the absence of such a designation does not remove the harm I have identified. There are no nearby residential properties in Hessle Road or Dorset Street with habitable windows directly facing the site of the proposed display and therefore, its presence and form of illumination would not have an unacceptable impact on the living conditions of occupiers of neighbouring properties. However, the absence of concern in that respect or objections from local residents is a neutral factor.
14. The purpose of the advertisement display would be to provide some wider economic benefits, whilst the flexibility to change the digital display would also provide practical and environmental benefits in terms of reducing waste, management and servicing requirements which all weigh in favour of the proposal. However, those benefits individually or cumulatively do not outweigh the harm that would arise upon visual amenity in the particular location for which express consent is sought.

15. Turning to matters of public safety. The advertisement display would draw attention due to its scale and use of LED illuminated digital images and text. It would be viewed by passing vehicles travelling east along Hessle Road when entering from a roundabout close to the junction with Dorset Street where an unsignalled pedestrian crossing and a marked bus stop are nearby. It would also be visible on the approach to the roundabout from the North Road and Askew Avenue junctions. Those are circumstances where drivers would need to take care to avoid risks of collisions and accidents with other vehicles and pedestrians.
16. Notwithstanding the above, whilst the advertisement display would be positioned relatively close to the junction of Hessle Road and Dorset Street, it would not obstruct or impair sight lines. Furthermore, it is in a location where the presence of a variety of roadside adverts, including on the gable ends of some side streets, are an established feature and where a 48-sheet externally illuminated sign was previously in-situ with no evidence of historic accidents. Consequently, when taking account of the relatively straight alignment of Hessle Road as it passes the site, the offset position of the advertisement on a side gable on the opposite side of the road, together with an intervening context of street lighting and other shopfront advertisements, it would not be unduly distracting or harmful to public safety. In reaching that view I have also taken account of the aforementioned ability to control the level of illumination and the frequency of changes of display. However, the absence of concern with respect to public safety is a neutral factor and does not override the harm otherwise identified with respect to amenity.
17. I conclude that the proposed advertisement display would have a harmful effect upon amenity, due to the unacceptable visual impact on the character and appearance of the site and the surrounding area identified. The proposal, therefore, conflicts with Policy 20 of the LP, the associated guidance in the SPD and the Framework in that respect.

Conclusion

18. For the above reasons, I have found that the proposed advertisement display would harm amenity. The proposal is unacceptable as the identified harm in terms of amenity is overriding and is not outweighed by economic and environmental benefits nor the absence of harm in terms of public safety.
19. I, therefore, conclude that the appeal should be dismissed.

Gareth Wildgoose

INSPECTOR