
Appeal Decision

Site visit made on 10 August 2021

by J P Longmuir BA(Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 September 2021

Appeal Ref: APP/D4635/Z/21/3275020

Land at Neachells Lane, Wilenhall, Wolverhampton WV13 3RP

- 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 Wolverhampton City Council.
 - The application Ref 21/00271/ADV, dated 1 March 2021, was refused by notice dated 11 May 2021.
 - The advertisement proposed is the removal of 4no existing illuminated 48-sheet advertisement displays and replacement with 2no illuminated 48-sheet digital advertisement displays.
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Decision

1. That part of the appeal that relates to the south facing illuminated 48-sheet digital advertisement display shown on the proposed site plan T4602 A4 051 dated 23.02.2021 is dismissed. That part of the appeal that relates to the north facing illuminated 48-sheet digital advertisement display only, shown on the proposed site plan T4602 A4 051 as applied for is allowed and express consent granted for its display. 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 in the conditions annexe at the end of this decision.

Main Issue

2. The main issue is the effect of the proposal on the amenity of the opposite semi-detached dwellings: Ivydene and Meltona.

Reasons

3. The advertisement displays would be located adjacent to Neachells Lane on the edge of a forecourt used for van and lorry sales. This is part of a wider commercial estate.
4. Opposite the appeal site is a pair of semi-detached dwellings. They have a low front wall bordering the road and hard surfaced frontage. The front elevations of both dwellings have large ground floor and upstairs windows.
5. The proposal is for two advertisements which would be orientated north and south along the Neachells Lane. The north facing advertisement would be orientated away from the houses and along the road. In terms of highway safety this would be set back from the driving visibility line along carriageway and away from a junction with a public road so would not impair highway

safety. Similarly, when seen in conjunction with the commercial frontage the advertisements would not look out of place. The Council also came to the same conclusions.

6. The south facing advertisement would be tilted towards the semi-detached dwellings and in close proximity. Bearing in mind the largely open frontage and the 6 x 3m size at 4m above the ground, it would be readily apparent. The dwellings have an open aspect towards the advertisement and the appellant fairly acknowledges that the facing rooms are likely to be habitable. I find that the changing movements of the digital display (typically every ten seconds) would be disturbing. The everyday living conditions of the occupants of both dwellings would be harmed.
7. Whilst the luminance of the advertisement could be controlled by condition, this would not resolve the unsettling nature of the changing display. A condition could also be imposed to limit the use between 23:00 and 06:00 however that would only reduce and not eliminate the disturbance.
8. I acknowledge the economic importance of advertisement displays but that would not outweigh the harm to the living conditions of the dwellings.
9. I have had regard to Wolverhampton Unitary Development Plan policies D4, D7, D8, D9 and EP19 as well as ENV3 of the Black Country Core Strategy where proposals should respond to the character of streets, respond to their context in terms of height, avoid unacceptable harm to living conditions, protect amenity and avoidance of unacceptable levels of light pollution. Paragraph 136 of the Framework refers to the need to consider amenity. The proposed south facing advertisement display would be in conflict in terms of the impact on living conditions.

Conditions

10. The Planning Practice Guidance provides advice on the imposition of the conditions. The Regulations provide standard conditions which do not need to be replicated here. The appellant has suggested conditions, which are necessary and justifiable to ensure highway safety.

Conclusion

11. A split decision is possible as the two advertisements are clearly separable.
12. I therefore conclude that consent should be granted to the north facing advertisement display but not the south facing. The north facing advertisement display is only granted subject to the conditions in the annexe below in addition to the standard conditions in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

John Longmuir

INSPECTOR

Conditions annexe

- 1) Only the north facing illuminated 48-sheet digital advertisement display shall be installed as shown on the proposed site plan T4602 A4 051 and elevations T4602 A4 061 dated 23.02.2021.

- 2) The luminance level of the display shall be controlled by ambient environmental control, which will automatically adjust the brightness level of the screen to track the light level changes in the environment throughout the day to ensure that the perceived brightness of the display is maintained at a set level.
- 3) The maximum luminance of the advertisements shall not exceed 600cd/m².
- 4) The minimum display time for each advertisement shall be 10 seconds and the advertisement shall not include any features or equipment which would permit interactive messages/advertisements to be displayed.
- 5) The interval between successive displays shall be 0.1 second or less and the complete display screen shall change without visual effects (including fading, swiping or other animated transition methods) between each advertisement
- 6) The advertisement shall not contain any animation, special effects, flashing, scrolling, three-dimensional images, intermittent or video elements. No images that resemble official road traffic signs, traffic lights or traffic matrix signs shall be displayed.
- 7) The advertisement shall include controls to ensure smooth uninterrupted transmission of images.
- 8) The sequencing of messages relating to the same product is not permitted.
- 9) If the installation breaks down or is not in use, it shall default to a plain, black screen.

End of conditions annexe