



Appeal Decision

Site visit made on 8 November 2021

by Nigel Harrison BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2021

Appeal Ref: APP/V4630/Z/21/3280018
457 Darlaston Road, Walsall, WS2 9SF

- 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 Walsall Metropolitan Borough Council.
 - The application Ref: 20/0444 dated 21 April 2020, was refused by notice dated 23 June 2021.
 - The advertisement proposed is: Upgrade of existing 48-sheet advertisement to support digital poster.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The *National Planning Policy Framework* (The Framework) was revised in July 2021, after the application was determined, and I have had regard to it in my decision. However, the relevant paragraph, other than being renumbered, has not changed in content.

Main Issues

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

Reasons

4. Powers under the Regulations¹ require decisions to be made only in the interests of amenity and public safety, taking into account the provisions of the development plan so far as they are material, and any other relevant considerations. I have taken the Council's policies into account as a material consideration, but they are not a determining factor in this case, which I have considered in the light of the Framework, the Government's *Planning Practice Guidance* (PPG), and the Regulations.

Amenity

5. The appeal site is located within a line of mainly terraced houses along the south side of Darlaston Road, with a public house and motor services/tyre depot opposite. Further to the west (beyond James Bridge) the area is

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

- dominated by industrial/commercial buildings and sites, although the section of road including the appeal site retains a predominantly residential character.
6. The proposal seeks to replace an existing 48-sheet advertisement with a 48-sheet digital display (6m x 3m). The advertisements displayed would be illuminated, static, whilst incorporating an automated 10-second sequential update. It would be positioned on the side gable elevation of No 457 Darlaston Road and would occupy most of the width of the gable.
 7. Although 'amenity' is not defined exhaustively in the Regulations, in practice it is usually understood to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement. PPG Paragraph 079 explains that the local characteristics of the neighbourhood will always be considered where residents or passers-by will be aware of the advertisement.
 8. Although the existing sign is externally illuminated, I consider the proposed LED digital display would appear much brighter and would be far more conspicuous within the streetscene. Despite the commercial development opposite, the advertisement is most closely related to the residential development extending to either side on the same side of the road, and so the large modern display would appear out of place. As a result of its size and digital illumination the sign would stand out more than any other feature in the streetscene, causing it to appear visually incongruous and overly dominant along this section of Darlaston Road.
 9. Albeit at right angles, the advertisement would be extremely close to the adjacent dwelling, No 459 Darlaston Road. Although the level of illumination would be within industry guidelines, the vivid display and changing images would catch the eye when seen from the front-facing habitable rooms of No 459 and have an intrusive and potentially disturbing impact on the amenity of the occupiers of that property. Even though there would be a 66% reduction in night illumination and taking into account the proposed late-night curfew, the digital illumination and regularly changing images associated with this type of display would be at odds with the more discrete appearance of the existing advertisement and the residential character of the local area.
 10. Due to its scale and method of illumination the proposed advertisement would introduce a visually prominent and obtrusive feature that would cause harm to both the character and appearance of the area and the amenity of the occupiers of No 459 Darlaston Road. As such it would conflict with Paragraph 136 of the Framework which says the quality and character of places can suffer when advertisements are poorly sited and designed, and with Policies ENV36 and ENV37 of the *Walsall Unitary Development Plan* (UDP) which say the most appropriate locations for poster hoardings/panel signs are likely to be in areas of mainly commercial character having regard to be had to the prominence of the advertisement in the street scene and long views. Overall, I find on this issue that the proposal would be harmful to the amenity of the area.

Public Safety

11. More detailed guidance concerning public safety considerations are set out in the PPG. Paragraph 067 acknowledges that advertisements are intended to attract attention, but proposed advertisements at those points where drivers need to take more care are more likely to affect public safety.

12. Digital advertisements of the size and form proposed are commonly found in an urban transport network. Consequently, having regard to the PPG, they are not of an 'unusual' nature and are generally unlikely to distract road users in normal driving conditions.
13. Although Darlaston Road is a fairly heavily trafficked road, the section in the vicinity of the appeal site is not a complex or particularly challenging section of highway and there is no necessity for a heightened level of concentration by drivers and pedestrians on the approach to and in the vicinity of the proposed display.
14. There is always the potential for a driver to be distracted by a digital display, but in this case, it would be positioned at a reasonable height above ground level, would be set back from the highway, and would be visible over a moderate distance when approaching from the west. These factors should ensure that in order to view or glimpse the display, drivers are not required to turn their attention away from the highway and the prevailing traffic conditions. There is nothing before me to indicate that the proposed advertisement is at a location that is potentially dangerous, or where the digital display is likely to materially harm highway safety.
15. However, a vacant site on the opposite side of the road has recently been granted planning permission for a large commercial development. The Council says this permission is a material consideration as the proposed advertisement would be located directly opposite the approved road junction for this development, which would be controlled by traffic signals and also incorporate a pedestrian crossing. The Council says the advertisement would be sufficiently distracting to motorists to draw their attention away from the traffic lights, pedestrians using the crossing, and vehicles moving in and out of the new road junction.
16. However, there is no certainty that the consented scheme would be built out within any 5-year express consent period, and there is no evidence before me to show that the advertisement would cause distraction to such a level that road users would not be able to safely navigate the new light-controlled junction and pedestrian crossing. Consequently, I can afford little weight to this approved development in my consideration of this appeal and find on this issue that the display of the advertisement would not be harmful to public safety.

Conclusion

17. I have found that the proposal would not be harmful in terms of public safety, but this does not outweigh the harm to amenity which would result and is decisive. Therefore, for the reasons given above, the appeal is dismissed.

Nigel Harrison

INSPECTOR