
Appeal Decision

Site visit made on 29 November 2021

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 24th December 2021

Appeal Ref: APP/V2635/Z/21/3277018

43 Lynn Road, Gaywood, King's Lynn, PE30 4PR

- 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 Wildstone Group Limited against the decision of King's Lynn & West Norfolk Borough Council.
 - The application Ref: 21/00197/A, dated 15 January 2021, was refused by notice dated 28 April 2021.
 - The development proposed is described as 'to "re-post" the existing display board with a "D-Poster" which will display digital and illuminated LED advertisement displays'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. A revised National Planning Policy Framework (the Framework) was published on the 20 July 2021. The Framework represents the Government's up to date planning policies and how they should be applied. The Council's reason for refusal refers to paragraph 110 and 127, which have been re-numbered 112 and 130 in the revised version. The parties have been provided with an opportunity to comment on the implications of this for their case.

Main Issues

3. Paragraph 136 of the Framework states that advertisements should be subject to control only in the interests of amenity and public safety, therefore, the main issues are the effect of the proposed development on:-
 - i) public safety; and
 - ii) the character and appearance of the area.

Reasons

Public safety

4. The proposed digital and illuminated LCD sign seeks to replace an existing non-illuminated billboard 'poster and paste' advertisement panel (a 48-sheet advert) of broadly identical size. The proposed lightweight digital format 9D-poster advertisement would display multiple static digital images on a 10 second sequential rotation. It would be positioned in roughly the same place as the existing advertisement, albeit at a slightly higher position from the ground,

on the gable elevation of 43 Lynn Road, a two-storey end of terrace property at the junction of St. Faith's Drive.

5. Regulation 3(2)(b)¹ states that factors relevant to public safety include, among other things, the safety of a person using the highway. The proposed advertisement would be situated in close proximity to the signal-controlled junction of Lynn Road (A148) and St. Faith's Drive together with a number of pedestrian crossings.
6. The A148 is identified as a Principal Road within the Norfolk County Council route hierarchy and thus is deemed to carry a significant volume of traffic. It is restricted to 30 mph with two-way traffic. This concurred with my observations at the site visit. St Faith's Drive appeared to be less busy in comparison. However, as a route providing access to the car park of a nearby supermarket, I noted that it received a regular flow of vehicular and pedestrian traffic. Consequently, the junction is busy and utilised by a considerable number and variety of highway users, including motorists, cyclists and pedestrians. Although my site visit provided only a snapshot of highway conditions, there is nothing before me to suggest that what I saw was untypical. As a result, it is likely that the junction would continue to remain busy throughout the day and the evening.
7. Albeit the proposed illumination would accord with a level of illumination set within the Institute of Lighting Professionals guidelines and the rate of rotation with guidance and industry standards, the Planning Practice Guidance emphasises that all advertisements are intended to attract attention and that proposed advertisements at points where drivers need to take more care are more likely to affect public safety.
8. I acknowledge that the appeal scheme would replace an established advertisement and it would not include any moving images or flashing lights. However, as a consequence of its elevated position and its method of illumination, the appeal scheme would be clearly seen by drivers travelling along the A148 from the west and, as drivers reach the junction whilst travelling along St. Faith's Drive. Whilst I have had regard to the findings of the Traffic Signal Brightness Test and the appellant's Highways Technical Notes, it would be a conspicuous and eye-catching visual feature that would draw the attention of approaching motorists and increase light spill within the area of the junction.
9. Given the prevalence of traffic signals and signage within the immediate vicinity of the appeal site, including a number of traffic signals that are positioned immediately adjacent to the appeal site, in my view, the proposal would inevitably distract motorists. Consequently, this would hinder the ready interpretation of traffic signals and lead to lengthened reaction times and reduced awareness of the road traffic signals, pedestrians utilising the crossings and surrounding traffic movements. I do not share the appellant's view that cognitive demand on the road user is low at this point of the highway. On the contrary, the distraction of motorists would be likely to interfere with the flow of traffic to the detriment of users of the highway and would inevitably result in vehicle's failing to stop for a red light which would lead to the risk of collision with vehicles or pedestrians.

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

10. I therefore conclude that the risk to highway and pedestrian safety would be likely to increase and a significant adverse harmful effect would be likely to arise as a result of the appeal scheme's size, siting and proposed digital illumination at this location. I have had regard to the appellant's suggestion to control via condition the level of illumination, the frequency of change and its hours of operation, but I nevertheless consider that the proposal has the significant potential to distract road users at a time when drivers should be paying careful attention to the road and those around them.
11. Accordingly, I conclude that the proposal would conflict with Policy CS11 of the King's Lynn & West Norfolk Borough Council Core Strategy (2011)(CS) and Policy DM15 of the King's Lynn & West Norfolk Borough Council Site Allocations and Development Management Policies Plan (2016)(SADMPP) insofar as these policies require development to provide for safe and convenient access for all modes.
12. Additionally, the proposal would conflict with the aims of the Framework which requires development to create places that are safe, secure and attractive and that, among other things, minimise the scope for conflicts between pedestrians, cyclists and vehicles². Development should be refused on highways grounds if it would lead to an unacceptable impact on highway safety³.

Character and appearance

13. The appeal site is not located within a conservation area, nor does it lie within close proximity of heritage assets, nor other landscape or environmental designations. Whilst the surrounding area to the north and east consists of a mix of residential and retail and commercial land use, to the west, the surrounding area is largely characterised by residential dwellings and it is from this direction along the A148 that the appeal site is readily appreciated with varied shopfronts and advertisements being positioned beyond the appeal site.
14. By reason of the proposal's scale, elevated position and method of illumination together with its location where a predominantly residential area transitions to a more mixed use and where I observed there to be a general absence of digital advertisements of the type proposed within this appeal, the appeal scheme would appear as a substantial visual intrusion in this highly prominent location. Albeit its digital LED method of illumination would be below best practice guidance for brightness, the proposal would nevertheless stand out from other advertisements within the area leading to a dominant and incongruous effect within the streetscene. The recurrent changing of the illuminated display would serve to further draw attention to its visual prominence and its harmful effect on the amenity of the surrounding area.
15. Notwithstanding the presence of a considerable number of streetlights, traffic lights and signage within the vicinity, the proposed advertisement would be distinctly different to the advertising display that it would replace. As a result, it would materially alter the appearance of the streetscene to the detriment of the surrounding area.
16. Therefore, I conclude that the proposed advertisement would lead to a significant detrimental impact on the character and appearance of the

² National Planning Policy Framework paragraph 112.

³ National Planning Policy Framework paragraph 111.

surrounding area. It would conflict with CS Policy CS08 and SADMPP Policy DM15 insofar as these policies seek a high-quality design and require development to protect and enhance the amenity of the wider environment. In addition, there would be conflict with paragraph 130 of the Framework insofar as new development should function well and add to the overall quality of the area for the lifetime of the development.

Other Matters

17. The use of high-quality materials to provide a modern display are noted together with the minimisation of electricity costs and waste. During void periods the advertisement could be used for the display of charitable campaigns and public artwork and in the event of emergency the display of public messages could be facilitated. However, none of these matters, either individually or cumulatively, overcome my findings with regards to the harm to public safety and the character and appearance of the area.
18. Local accident data has been provided to me. Whilst I note there have been limited numbers of accidents in the vicinity of the appeal site, of which none were recorded to be as a result of driver distraction, this does not provide justification to increase the risk of an accident at this location where I consider there would be significant potential for driver confusion and distraction.
19. The Council have not identified any adverse impact on the living conditions of neighbouring occupiers. However, the absence of harm is a neutral matter that weighs neither for nor against a proposal.
20. Reference is made to examples of similar developments at other locations within the UK. However, there is limited information before me regarding the particular circumstances of those developments and whether the circumstances are comparable to the appeal proposal. Therefore, a comparison is of little relevance in this instance and I have considered the appeal before me on its individual planning merits.

Conclusion

21. For the reasons given above, I conclude that the appeal is dismissed.

E Brownless

INSPECTOR