
Appeal Decision

Site visit made on 17 December 2021

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24th December 2021

Appeal Ref: APP/V2635/Z/21/3278302

1 Wisbech Road, King's Lynn PE30 5JN

- 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 King's Lynn and West Norfolk Borough Council.
 - The application Ref 21/01047/A, dated 29 April 2021, was refused by notice dated 28 June 2021.
 - The advertisement proposed is a new single illuminated 48-sheet digital advertisement display.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues are the effect of the proposed advertisement on visual amenity and on public safety, with particular regard to highway safety.

Reasons

Visual amenity

3. The proposal is an internally illuminated digital display on the gable wall of the appeal building, which stands near to the junction between Wisbech Road, Hardings Way and Sandpiper Way, which is hereafter referred to as 'the junction', within an area of mixed character. The new display would be placed to one side of the host wall to primarily face southwest bound users of Wisbech Road. From what I saw, most existing signage in the immediate vicinity of the site was modest in scale and largely at street level being often associated with retail, food and drink outlets and commercial premises.
4. According to the appellant, the proposal is, in effect, a like-for-like replacement for a hoarding that was previously in place albeit modernised to include a digital display that would show static images changing at intervals of not less than 10 seconds. The appellant states that the site has a longstanding history of advertisement displays with no objections to their presence. In support of that stance, historic image captures from Google Street View appear to show a hoarding in place on the sidewall of No 1 in 2009 and also in 2011. The appellant states that the advertisement was removed sometime thereafter.
5. However, the precise status of this previous display is unclear. There is, for instance, no record of the Council granting consent for it before me nor has

detailed evidence been provided to fully substantiate the appellant's assertion that it benefits from deemed consent in accordance with the Regulations. While Norfolk County Council, as Highway Authority, states that the principle of an advertisement at this location has been established, it is unclear on what basis that conclusion is reached. In the absence of definitive evidence, I am unable to attach more than moderate weight to the appellant's fallback position, which is that an advertisement that is similar to its predecessor could be displayed on the sidewall of No 1 without an application for consent. Nevertheless, it remains a consideration to which I have had regard.

6. When seen from Wisbech Road just to the northeast of the site, the flank wall on which the new advertisement would be displayed stands tall beyond the junction. From this direction, the proposal would appear as a substantial and prominent feature in the street scene due to its considerable size and elevated position. It would project well above the general commercial aspects of the existing premises at No 1, notably its ground floor shop front and signage. As a result, the impact of the display of advertising material would be significant. That advertisements on the new digital display would be clear and sharp in their detail, regularly change and be illuminated, would also draw the eye from the road especially after dusk, thereby accentuating its roadside presence.
7. It is on the southwest bound approach to the site along Wisbech Road that the proposed display would be particularly evident. From some distance along this highway, the proposal would be highly conspicuous given its scale, high-level position, illumination and the changing displays. While the proposal would be similar in size and position to the previous sign, the new digital display would introduce a much crisper and regularly changing image compared to its predecessor. These features would differentiate it from the previous sign and one that the appellant says could be re-installed in any event. It would also contrast to most advertising that is evident in the local area. While the brightness and hours of illumination could be controlled by conditions, the new display would still visually dominate this stretch of road and the retail frontage of No 1. In doing so, the proposal would be unduly harmful to visual amenity.
8. Being noticeable obviously reflects the main purposes of the display, which is to draw the eye of people passing by and to inform them of the information displayed. I also acknowledge that alongside buildings, it is roads and their related infrastructure, notably carriageways, traffic lights, directional signs and street lighting that characterise the street scene to which the site belongs. In that urban context, within which the movement of road users and others also introduces some dynamism, advertisements are an expected feature of the streetscape. Even so, I observed that existing advertisements in the vicinity of the site are generally smaller and set a lower level than the proposal. As such, they are far less conspicuous than would be the case with the appeal scheme.
9. I note that the site is not within a conservation area and that the host property is not a listed building. I also agree that the black coloured flank wall of No 1 upon which the advertisement would be displayed contributes little positively to the character and appearance of the local area. However, there are ways to alter the appearance of this part of No 1 other than introducing a new advertisement that in my view would be detrimental to the interests of amenity.

Public safety

10. The Planning Practice Guidance (the Guidance) notes that advertisements at points where drivers need to take more care, for example at junctions and pedestrian crossings, are more likely to affect public safety. It also states that highway danger may arise due to internally illuminated signs that because of their colour could be mistaken for, or confused with, traffic lights; and those signs that are subject to frequent changes of the display. This does not mean that all such signs would therefore pose a safety hazard since individual proposals need to be assessed on their own merits. The Guidance adds that there are less likely to be road safety problems if the advertisement is not on the skyline or on a site within a commercial locality, as is partly the case here.
11. As the appellant points out, there is nothing unusual or overly complex about the junction. The 4-way cross layout of the junction follows a conventional arrangement and the signage indicating that turns into Hardings Way from Wisbech Road are for buses and cyclists only is clear. During the mid morning site visit, I saw that the junction was reasonably busy with a steady flow of traffic and a small number of pedestrians crossing the road when the traffic lights were on red. From these observations, and in the light of the evidence before me, I have little doubt that road users approaching and using the junction, including drivers, cyclists and pedestrians, require a high degree of attention and concentration to safely navigate it.
12. For drivers traveling along Wisbech Road towards the site, the new advertisement would come into view behind the traffic signals on the immediate approach to the junction. Just before and at the stop lines on this highway, the new advertisement would be seen in the context of the heads to the traffic signals, situated next to the carriageway and at the far side of the junction. The prominence of the new advertisement and the frequently changing display would draw the eye, diverting the attention of road users even momentarily. It would distract exactly at the point where concentration on the road ahead is required even from people that are familiar with local highway conditions and taking reasonable care of their own and others' safety.
13. It is true, as the appellant states, that the new display would be some distance behind the traffic lights when seen from the flow of oncoming traffic from the northeast. From most vantage points, the heads of the traffic lights would not be immediately in front of the new advertisement. However, for those approaching along Wisbech Road it would be seen in the same vista and at a similar level to the heads of the traffic lights on the immediate approach to the junction. At this point, a change in the colour of the image on the proposed advertisement from red to amber or green for instance could be glimpsed and misinterpreted by some drivers as a signal to move forward. That decision would be made at exactly the point where pedestrians may well be crossing the carriageway or a bus or cyclist is waiting to turn right into Hardings Way.
14. For these reasons, the proposal would be unduly distracting to road users and pose a significant safety hazard even taking into account that roadside distractions can often form part of a driver's experience. As a result, it would be materially harmful to public safety.
15. The appellant states that the proposal would contribute to the health of the economy, support local business, provide an opportunity to display public information and that the use of modern technology would reduce waste and

energy consumption, which are supported in policy terms. Nevertheless, I find that the proposal would be detrimental to the interests of amenity and public safety for the reasons given.

16. The Regulations, the National Planning Policy Framework and the Guidance all state that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts. Although I have taken into account the planning policies and guidance to which the main parties have referred, these have not been a decisive consideration in my decision.

Conclusion

17. Overall, I conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR