
Appeal Decision

Site visit made on 31 January 2022 by A J Sutton BA (Hons) DipTP MRTPI

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2022

Appeal Ref: APP/D4635/Z/21/3285039

Land north of 504, Advertising Right on North Boundary, Dudley Road, Wolverhampton, WV2 3AA

- 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 Mr Richard Page C/O Wildstone against the decision of Wolverhampton City Council.
 - The application Ref 21/01011/ADV, dated 22 June 2021, was refused by notice dated 6 September 2021.
 - The advertisement proposed is upgrade of existing 96-sheet illuminated advertising display to a 48-sheet digital advertising display. Illumination to not exceed 300cd/sqm at night (dusk to dawn) as per the Institute of Lighting Professionals best practice guidance; The Brightness of Illuminated Advertisements PLG05 2015.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matter

3. The Council has drawn my attention to the policies it considers to be relevant to this appeal. However, powers under the Regulations¹ to control advertisements may be exercised only in the interests of amenity and public safety, taking account of the provisions of the development plan so far as they are material and any other relevant factors. In my determination of this appeal, the Council's policies have not therefore, by themselves, been decisive.

Main Issue

4. The Council has raised no concerns regarding amenity in this case and from the evidence before me I see no reason to disagree. Therefore, the main issue is the effect of the proposed advertisement on public safety.

Reasons for the Recommendation

5. The appeal site edges a well-lit stretch of Dudley Road, where vehicle speed is limited to 30mph. The road forms part of a busy main arterial route into the city and mixed commercial area which supports local shops and businesses.

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

6. Motorists travelling north have reasonable visibility on this part of the A459, a straight stretch of road. However, north of the appeal site is a signal-controlled pedestrian crossing before a junction where drivers must give way to other traffic approaching on a gyratory system from the east. There is potential for the signals at the crossing to be confused for signals for the subsequent junction, so navigating this requires concentration from drivers.
7. In addition to this, motorists' focus is required to take account of vehicles turning right into Cartwright Street, negotiating a ghost island, buses stopping at the bus stop on approach to the site, and to avoid incidences with other vehicles travelling south, entering Dudley Road from the busy gyratory system. There is also potential for pedestrians to cross just before the appeal site as railings prevent crossing alongside the site. This part of the highway is therefore relatively complex and places cognitive demands on motorists to avoid incidents with other road users.
8. The Crashmap data submitted does not show any incidents occurring adjacent to the appeal site but shows several incidents, both slight and serious, on sections of the road before and after. While I have no details of how these incidents occurred, they are all located at road junctions. Consequently, it is reasonable to conclude that this stretch of road from Drayton Street to the 'Give Way' junction at the gyratory already contains significant risks to highway safety.
9. The proposed advertisement would be smaller in size than the existing panel on the appeal site but would still be a sizeable feature in the street scene. The principle of advertising at this site may be long established and not unexpected in a commercial setting. However, the internally illuminated LED, digital panel, displaying regularly changing static images would be very different in style and nature to the externally lit poster advertisement currently displayed on the site.
10. Whilst conditions can limit the luminance levels in accordance with the Institute of Lighting Professionals guidelines, control the nature of images and prevent special effects, they would not minimise the distinct difference between this type of display and the poster style advertisement. Consequently, I consider it would be a materially more distracting feature to road users than the existing advertisement.
11. The proposal would be set back from the A459 and approximately 43m from the pedestrian crossing and 57m from the gyratory junction. It therefore appears to be in a similar position to a replacement advertisement of the same size which was dismissed on appeal in 2018, which the Inspector described as being 'about 60m' from the junction.² There is no substantive evidence before me that the complexity of the highway described in that decision has changed since then.
12. The distance from the site to the pedestrian crossing meets the required stopping distance in the Manual for Streets for a 30mph road. However, the nature of the display and changing images, even if only one change was experienced, would unduly attract the attention of motorists at a point where absolute focus is required, such that even drivers exercising reasonable care could be materially distracted. This distraction could prevent motorists

² Appeal Ref APP/D4635/Z/17/3186612

responding promptly at the pedestrian crossing and the busy junction beyond and failing to react in time to stop.

13. Furthermore, the advertisement would be close to the junction of Dudley Road with Cartwright Street. While it would not obstruct sightlines, the advertisement would form part of the immediate foreground for drivers entering the ghost island to access Cartwright Street. This would be close to a section of the highway where motorists inbound to Cartwright Street cross the path of southbound traffic entering Dudley Road from a tight bend at the junction with Grove Street. Motorists entering Cartwright Street also need great awareness of pedestrians who may be crossing. This adds to the potential for conflict if motorists are distracted.
14. Consequently, the additional distraction that would result compared to the existing situation would materially increase the risk of collisions with other motorists, cyclists and pedestrians in this area.
15. I therefore conclude that the proposed advertisement would have a harmful effect on public safety in respect of highway safety. Although not decisive in this case, I have taken into account saved policies AM15 and EP19 of the Wolverhampton Unitary Development Plan, policy ENV3 of the Black Country Core Strategy and advice in the Supplementary Planning Guidance No 7 which seek to protect public safety, including road and pedestrian safety, and so are material in this case. Given that I have concluded that the proposal would harm highway safety, the proposal conflicts with these policies.

Other Matters

16. The character of places should not suffer from poorly sited and designed advertisements. This is an expectation for all proposals and the lack of harm in this regard is a neutral factor in this appeal.
17. I have had regard to the potential benefits that could arise which include investment in the area, reduction of vehicle movements for maintenance, use of the display for non-commercial and/or locally relevant advertisements and contribution to Smart City objectives. However, these are all factors which fall outside the scope of considerations set out in the Regulations, and for that reason do not outweigh the harm that would result from the proposal.
18. The proposal's compliance with aspects of best practice set out in Transport for London Guidance is noted. However, I have found harm to public safety for the reasons outlined above and the guidance has not been determinative in this case.

Conclusion and Recommendation

19. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

A J Sutton

APPEAL PLANNING OFFICER

Inspector's Decision

20. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

L McKay

INSPECTOR