

Appeal Decision

Site visit made on 6 April 2022

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21ST April 2022

Appeal Ref. APP/Z4310/Z/22/3291833

Machine Mart Ltd, 80-88 London Road, Liverpool L3 5NF

- 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 Liverpool City Council.
 - The application ref. 21A/2397, dated 31 August 2021, was refused by notice dated 20 January 2022.
 - The advertisement proposed is:
 "Replacement of existing poster display with wall-mounted 48-sheet D-Poster display
 - illumination to comply with Institute of Lighting Professionals' PLG05 (see planning statement)
 - Frequency of images to be no greater than once every ten seconds
 - No moving images, video or flashing lights to be displayed."
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Decision

1. The appeal is dismissed.

Procedural points

2. Under the above Regulations powers to control advertisements are to be exercised 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 factors. The National Planning Policy Framework (the Framework) and the Planning Practice Guidance (PPG) reiterate this approach.
3. I am aware that shortly after the Council refused to grant express consent, the Liverpool Local Plan 2013-2033 (LLP) was adopted, replacing the Unitary Development Plan (UDP). LLP Policy UD9 is relevant as it covers proposals for advertisements. I have disregarded UDP Policy HD25 which was also mentioned in the Council's decision notice.

Main issues

4. The main issues are the effects of the proposed advertisement display upon the amenity of the site and its surroundings and upon public safety.

Reasons

Amenity

5. The appeal site does not fall within any designated heritage area and its surroundings are not characterized by the presence of any important buildings or features of scenic, historic, architectural, cultural or similar interest.

6. The proposed advertisement display would be attached to the host commercial building's eastern flank wall which faces onto a back street cul-de-sac (St. Vincent Street), where it would replace an existing, non-illuminated, static poster advertisement associated with the commercial use. However, like the existing signage, it would also be noticeable from various areas around the signal-controlled intersection of London Road, Norton Street and Seymour Street a short distance away. It would take its place in a busy area, especially along London Road, characterized by a mix of uses such as shops, eating establishments, commercial services, public transport facilities, a conference and training venue and residential, including modern, fairly tall and sizeable apartment buildings. Unsurprisingly, there are many advertisements of various designs and forms of illumination along London Road.
7. I am told that the site is situated within the London Road District Centre as defined in the LLP and this is consistent with my description of the immediate neighbourhood set out in the above paragraph. Moreover, London Road has the character of being a primary or strategic route heading on westwards towards the city centre, the buildings within which can be made out in the distance when viewing from the signal-controlled junction. Being within the commercial area of a major city where there are large buildings and main highways gives this locality a character which the PPG identifies as likely to be a suitable location for large poster-hoardings. Whilst this might be the area's first digital poster display, with the characteristics as described in the heading above, it would not form an alien or incongruous feature given the nature of the road and the existing signage along the London Road corridor. Rather, its contemporary design would make a complementary contribution to some of the regeneration development that has evidently occurred along London Road in recent times.
8. By a combination of the position of the proposed sign or the alignment of the roads meeting at the junction or the layout of buildings near that junction, I tend to concur with the appellant that the sign would not have the long range of visibility feared by the Council. The brightness and illumination of the sign would be controlled by an ambient light sensor system to recognised industry standards and the rotational nature of the advertisements to be displayed would be well measured. The amenity of the area would not be harmed by these aspects especially as conditions could be imposed controlling the illumination, sequencing, length of displays and hours of operation.
9. The display would fit neatly onto the 3-storey part of the side wall of the building at first floor level. Whilst paragraph 10.30 of the LLP suggests that advertisements above ground floor level on buildings would normally be considered inappropriate, it would be odd to see signs of this type fixed to the ground floor of a building. In any event, with its top frame being shown under the height of the roof of the 2-storey part of the return wing along St. Vincent Street, it would not occupy an unduly elevated position. Irrespective of whether the existing static poster advertisement, which reaches close to the top of the same 3-storey flank wall, benefits from deemed consent, the proposal would not appear excessive in size or height. As it would be visually linked only to the retained fascia sign directly below, it would not become part of a critical mass of similar advertisements that results in harmful clutter in the street scene.
10. I find that the proposed advertisement display would not harm the amenity of the site and its surroundings. Although not decisive, the scheme would meet those criteria within LLP Policy UD9 that have some relevance to that issue and would not go against the advice given in paragraph 136 of the Framework.

Public safety

11. The PPG says that all advertisements are intended to attract attention but those proposed at points where drivers need to take more care are more likely to affect public safety. For example, at junctions, roundabouts, pedestrian crossings, on the approach to a low bridge or level crossing or other places where local conditions present traffic hazards.
12. The 4-arm, signal-controlled junction in the vicinity of the appeal site incorporates pedestrian crossings on all 4 arms. As I observed during my visit, this a busy junction in terms of the amount of general traffic, public buses and pedestrians and, as part of a key (west-east) route into and out of the city centre, London Road is likely to remain busy throughout the day and into the evening. It is clear to me that this junction is one such point where drivers need to take more care. Whilst there may have been only 3 minor incidents at the junction in the last 5-year period (Appendix 2 of the appellant's statement), it shows that the junction is not immune from such events in the current situation and in any event, a lack of accidents is not a persuasive justification to increase the risk of an accident occurring in the future.
13. I have noted the in-built mechanisms which would control the operation and brightness of the digital images, but there can be no doubt that the proposed advertisement display would represent a significant and somewhat unusual new source of light emission very close to this road junction. Drivers of vehicles approaching the junction from the east along London Road and from the south along Seymour Street would be likely to be distracted by the digital display away from the primary traffic lights, especially at points quite close to the respective junction lines. In addition to this general concern, the Highway Authority, who objected to the application, have produced photographic evidence which shows that there will be positions on both of those same roads where drivers may perceive the proposed sign to be directly behind the heads of the traffic signals. It would be quite possible in that scenario for the traffic signals to merge with and become difficult to distinguish from the illuminated digital image behind, creating further confusion for motorists. Failure to respond adequately to traffic signals would carry a significant risk to highway and public safety at this busy junction.
14. These concerns are sufficient for me to find that the proposed advertisement display would pose an unacceptable risk to public safety. Although not decisive, as the scheme would constitute a traffic hazard, there would be conflict with criterion b of LLP Policy UD9.

Conclusion

15. With suitable conditions imposed, I found under the first main issue that the proposal would not result in harm to amenity. This does not, however, outweigh the concerns I found under the second main issue relating to public safety. Having regard to all other matters raised in the written material before me, I have reached the conclusion that the appeal should not succeed.

Andrew Dale

INSPECTOR