
Appeal Decision

Site visit made on 18 March 2022

by R Jones BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2022

Appeal Ref: APP/R4408/Z/21/3287587

Land at West Way, Corner of New Street, Barnsley S70 1SW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Alight Media against the decision of Barnsley Metropolitan Borough Council.
 - The application Ref 2021/1243, dated 18 June 2021, was refused by notice dated 8 November 2021.
 - The development proposed is a double-sided freestanding 48-sheet sized digital LED advertising unit mounted on a single column.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. In their decision the Council have referenced policies D1 and T4 of the Barnsley Local Plan (January 2019) (LP) and the Supplementary Planning Document: Advertisements (May 2019) (SPD). However, powers under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) to control advertisements may only be exercised in the interests of amenity and public safety. I have therefore taken the LP policies and SPD into account insofar as they are material, but they have not been decisive in my decision.

Main Issues

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

Reasons

Amenity

4. The appeal site is a piece of land situated adjacent a boundary wall on part of a recently refurbished car park on the corner of New Street and to the north of West Way. The latter is a dual carriageway which is part of the A628 linking Barnsley town centre (to the north of the site) and the M1. The surrounding area is predominantly commercial in character, the site located adjacent the Alhambra Shopping Centre and opposite a Morrisons supermarket, petrol filling station and McDonalds drive thru amongst other retail and commercial units.

5. The proposal is for a double-sided 48 sheet digital LED screen display mounted on a single pole 2.5m from the ground. It would be located broadly at right angles to West Way principally facing traffic travelling on West Way in both directions, and would display static images that would change every 10 seconds. The display would show no interactive advertisements, motion or special effects of any kind.
6. The proposed advertisement would be large in size, with the LED screen itself (so excluding the pressed metal/GRP box frame) measuring 6m in width and 3m in height and would be in an elevated position, 2.5m from the ground and above the wall forming the boundary of the car park. The combination of its size and elevated position means that the advertisement would appear highly prominent when viewed at close proximity from either direction on West Way, and in longer views travelling westwards from the Alhambra roundabout. I note that longer views when travelling eastwards are more limited because of the location of the appeal site on the inside of a slight bend in West Way and the position of a row of trees, which would partly obscure the advertisement (at least in the summer months).
7. The proposed advertisement (when travelling east) will be seen against the backdrop, and would partially obscure, the fascia tenant sign of the Alhambra Shopping Centre. There are other advertisements in the surrounding area, including the totem signs associated with the Morrisons and McDonalds drive thru and the 'Big Man Menswear' sign erected on the car park boundary wall. However, I found these to be generally smaller in scale and relate to the premises on which they are sited. Further, although some are illuminated, existing signage in the vicinity does not incorporate such large LED displays. The proposed intermittent changing of the LED display would inevitably draw the eye, more so than other signage, increasing its visual prominence within the street scene.
8. The Planning Practice Guidance (PPG) is that, in assessing amenity, consideration should be given to the local characteristics of the neighbourhood. It further advises that, whilst a large poster-hoarding would be refused where it would dominate a group of listed buildings, it would be permitted in a commercial area of a major city (where there are large buildings and main highways) where the advertisement would not adversely affect the visual amenity of the neighbourhood of the site. Albeit located in a predominantly commercial area, in the local context of the appeal site, the proposed advertisement would appear an overly large, prominent and incongruous feature. It would cause harm to the appearance and amenity of the local area, rather than adding interest to the busy commercial setting as asserted by the appellant.
9. I have considered the appellant's suggested conditions, including ambient environmental controls that would adjust brightness levels throughout the day, maximum dusk to dawn luminance levels and a minimum time for an image to be displayed. However, these would not sufficiently mitigate the overall harm that I have identified above which is caused, only in part, by the illumination and nature of the display. I therefore conclude that the proposed advertisement would cause harm to the visual amenity of the area, contrary to the Regulations. It would also conflict with LP Policy D1 and the SPD which, amongst other things, seek high quality design.

Public safety

10. The Council's objection to the proposed advertisement on public safety grounds has been informed by an objection from the Highways Authority. The junction with West Way and Upper New Street to the south of the appeal site is traffic signal controlled, with 8no. signal heads (in each direction) including three at high level. This controls traffic along West Way in both directions (two lanes) and includes a left and right-hand filter lane into the commercial area of Upper New Street, including the Morrisons supermarket, petrol filling station and McDonalds drive thru. It also includes signalised pedestrian crossings at each arm of the junction with safety barriers on all corners to prevent pedestrians crossing elsewhere.
11. The PPG states that all advertisements are intended to attract attention, with those proposed at points where drivers need to take more care more likely to affect public safety – for example, at junctions or pedestrian crossings. The PPG further advises that the main types of advertisements which may cause danger to road users include those which, because of their size of siting, would obstruct or confuse a road-user's view, or reduce the clarity or effectiveness of a traffic sign or signal.
12. I note that the phasing of the junction in itself is straightforward. As a driver, if your signal is green, you proceed through the whole junction including the pedestrian crossings. However, I observed that the West Way approaching the appeal site and the junction itself (all movements) was very busy. This included the pedestrian crossings which appeared, at the time of my site visit, to be a well-used link between the town centre and the commercial/retail areas to the south. I therefore find it a location sensitive to distraction or confusion.
13. I recognise that the PPG notes that there are less likely to be road safety problems if the advertisement is on a site within a commercial locality, and given its orientation, I concur with the appellant that the proposed advertisement would have no significant impact on drivers approaching the site from the north or south.
14. However, the proposed advertisement is designed to capture the attention of highway users and for vehicles travelling eastwards and westwards on West Way they are at a location where a high level of concentration on the road is required, especially given the number of vehicle and pedestrian movements. This is particularly pertinent when travelling eastwards given the proximity of the 'giveaway' lines at the unsignalised left in/left out junction with New Street. Any confusion would reduce the effectiveness of the traffic signals, to the detriment of safety.
15. Illuminated signs, including those using LED technology, which are subject to frequent changes of the display, are identified in the PPG as a type of advertisement which may cause danger to road users. It is proposed that the advertisement images would be static, but would change every 10 seconds. This frequency of change could confuse or distract drivers and therein reduce the time to assess or react to immediate risks to safety, such as stopped vehicles or pedestrians in the road. In combination with the proximity of the advertisement to the junction, I find this would be so distracting so as to create a hazard.

16. For these reasons, I conclude that the proposed advertisement would be detrimental to public safety. Consequently, it would conflict with LP Policy T4 and the SPD which seek to ensure proposals provide transport users with safe, secure and convenient access and movement.

Other Matters

17. My attention is drawn by the appellant to recent consents for 'identical' advertisement panels elsewhere in Barnsley. I have not been provided with full details of these, and I am mindful that they will have their own site-specific circumstances. As such, they may not be directly comparable to the proposal before me.
18. I appreciate that digital technology may bring some environmental benefits, such as those asserted by the appellant, which include a reduction in waste compared to printed vinyl, remote management, servicing and maintenance, and the extended service life of LEDs. Whilst I have little evidence before me as to why the advertisement is patently needed by the appellant, I also acknowledge the contribution that advertising generally makes to the economic health of the country.
19. However, in this case, these matters would not outweigh the harm to amenity and public safety that I have identified above. Moreover, the Regulations require that I exercise my powers only with regard to amenity and public safety albeit these benefits may be proffered as other relevant factors.

Conclusions

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

R Jones

INSPECTOR